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ONTARIO AND QUEBEC

SALES TAX

WITH RELATED TAXES

1966

Amendments

Consolidated to April 15, 1966

C C H CANADIAN LIMITED
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Foreword

This book contains the full texts of the Retail Sales Tax Act, 1960-61, as amended, the Tobacco Tax Act, 1965 and the Hospitals Tax Act (Amusements) of Ontario, as well as the Retail Sales Tax Act, the Amusement Tax Act, the Meals and Hotels Tax Act, the Telecommunications Tax Act and the Tobacco Tax Act of Quebec. Also included are the full texts of the regulations, rulings and instructions issued under each of these Acts. All amendments to date of publication are consolidated.

In the publication of this book, meticulous care has been exercised to set out an exact reproduction of the law as passed by the Legislature with all amendments consolidated. Some changes in printing style have been adopted, however, for convenience. Thus, for example, marginal notes appearing in the official statutes have been reproduced in bold face type in the first line of the section or subsection to which they apply. None of these changes affects the substance, the punctuation, or the indentation of the wording of the statutes as they appear in the Statutes of Ontario and Quebec as amended.

It should be noted that new tax regulations, amendments, rulings, etc., are issued so frequently and in such volume that no bound book can remain up to date for long. Only loose leaf reporting can keep up with the changes. For those who must keep themselves informed of the very latest changes in the law and its application, the publisher's loose leaf ONTARIO TAX REPORTS and QUEBEC TAX REPORTS report, integrate and explain these as quickly as they occur in reports averaging more than one a month.

April, 1966

*Statutes
Ont.*

CCH Canadian Limited



Second Printing, November, 1966

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ROYAL ASSENT DATES FOR 1966 AMENDMENTS

Ontario

Retail Sales Tax Act, 1960-61, 1966, <i>Bill No. 70</i> ..	March 31, 1966
Tobacco Tax Act, 1965, 1966, <i>Bill No. 71</i>	March 31, 1966

HIGHLIGHTS OF 1966 AMENDMENTS

ONTARIO RETAIL SALES TAX

The Retail Sales Tax Act, 1960-61.—*Bill No. 70, 1966*, An Act to amend The Retail Sales Tax Act, 1960-61, assented to March 29, 1966, and effective April 1, 1966, amends the Act as follows:

Definition of "tangible personal property".—Sec. 1-13 is amended to extend the definition of "tangible personal property" to include telegraph services and long distance telephone calls.

Tax rate.—Sec. 2(1) is amended to increase the rate of tax payable by a purchaser to 5 per cent from 3 per cent.

Delayed delivery.—Sec. 2(5) is amended to provide that any person taking delivery of tangible personal property on or after April 1, 1966, will be required to pay tax at 5 per cent, even though the personal property was purchased before that date.

Property brought into Ontario.—Sec. 2(7) is amended to clarify the intent of the provision.

Exemptions.—Paragraphs 5 and 6 of sec. 5 are amended to add a reference to The Motor Vehicle Fuel Tax Act, 1965.

Paragraph 9 of sec. 5 is amended to provide that the Treasurer will define exempt wood to limit it to wood used only for fuel.

Paragraph 10 of sec. 5 is amended to provide that the Treasurer will define exempt natural and manufactured gas to limit their use as fuel only.

Paragraph 20 of sec. 5 is amended to provide an exemption for repairs to certain types of equipment.

Paragraph 24 of sec. 5 is amended to permit the Treasurer to define by ruling the aircraft that will be exempt from sales tax.

Paragraph 25 of sec. 5 is amended to provide that the exemption of certain equipment applies only to municipalities, universities and public hospitals.

Paragraphs 28 and 37 of sec. 5 are amended to provide an exemption for certain repairs.

Paragraph 52 of sec. 5 is repealed since long distance telephone calls are no longer exempt.

Paragraphs 56, 57 and 61 of sec. 5 are amended to provide an exemption for certain repairs.

Paragraph 62 of sec. 5 amended to indicate that only public hospitals will receive the benefit of the exemption under this provision.

Paragraphs 65 and 66 of sec. 5 are added to provide exemptions for settlers' effects and cut natural evergreen Christmas trees when used for decoration.

Notice of objection.—Sec. 17(1) is amended to extend the time for filing a notice of objection to an assessment to 60 days from 30 days.

Investigations.—Sec. 24(3) is amended to clarify the intention of the provision.

Surety bond.—Sec. 31(1) is amended to provide that the minimum bond that the Comptroller may require from a vendor will be \$100.

Highlights of 1966 Amendments

ONTARIO TOBACCO TAX

The Tobacco Tax Act, 1965.—*Bill No. 71, 1966*, An Act to amend The Tobacco Tax Act, 1965, assented to March 29, 1966 and effective April 1, 1966, increased the tax on each cigarette purchased by a consumer to 1/10 of one cent from 1/20 of one cent. The tax on tobacco, other than cigarettes and cigars, purchased in a package selling at less than 50 cents a package is increased to one cent per ounce from ½ cent, and the tax on packages selling at 50 cents or more is increased to 2 cents an ounce or part thereof from one cent.

QUEBEC

Note: At the printing date of this book there were no 1966 amendments to the Retail Sales Tax Act, the Amusement Tax Act, the Meals and Hotels Tax Act, the Telecommunications Tax Act or the Tobacco Tax Act, nor were any changes in these Acts forecast in the 1966 Budget Speech. CCH.

ONTARIO

THE RETAIL SALES TAX ACT, 1960-61

(Chapter 91, S.O. 1960-61 as amended)

Note: A summary of the 1966 amendments with applicable dates will be found at page v. CCH.

[¶ 5001]

Sec. 1. Interpretation.—In this Act,

[¶ 5005]

1. “collector” means a person who collects taxes under this Act;

[¶ 5010]

2. “Comptroller” means the Comptroller of Revenue;

[¶ 5015]

3. “consumer” or “user” means a person who,

(a) utilizes or intends to utilize in Ontario tangible personal property for his own consumption or for the consumption of any other person at his expense, or

(b) utilizes or intends to utilize in Ontario tangible personal property on behalf of or as the agent for a principal who desired or desires to so utilize such property for consumption by the principal or by any person at the expense of the principal;

[¶ 5020]

4. “consumption” includes the use, and the incorporation into any structure, building or fixture, of tangible personal property including that manufactured by the consumer or further processed or otherwise improved by him;

[¶ 5025]

5. “fair value” includes,

(a) the price for which the tangible personal property was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the property passed as the price or on account of the price of the property purchased,

Sec. 1—continued

- (b) the cost of or charges for customs, excise and transportation, whether or not such are shown separately in the books of the vendor or on an invoice,
- (c) the cost of installation where the contract under which the property is acquired provides for the acquisition of the property and its installation for one consideration, and
- (d) the cost, including materials, labour and manufacturing overhead, of tangible personal property produced by the vendor or person for his own consumption or use;

[¶ 5030]

- 6. "food products" includes insulin, vitamins, saccharin, sucaryl and any dietary supplement or adjunct that is not a drug or a medicine, but does not include spirituous, malt or vinous liquors;

[¶ 5035]

- 7. "person", in addition to its meaning in *The Interpretation Act*, includes Her Majesty in right of Ontario, a municipal corporation, or a local board thereof, as defined in *The Department of Municipal Affairs Act*, and any board, commission or authority established under any Act of the Legislature;

[¶ 5040]

- 8. "purchaser" means a consumer who acquires tangible personal property at a sale anywhere for his own consumption or use in Ontario, or for the consumption or use in Ontario of other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such property for consumption or use in Ontario by such principal or other persons at his expense; (1962-63, c. 127, s. 1(1).)

[¶ 5045]

- 8a. "registered consumer" means a person who brings or imports into Ontario tangible personal property for his own use or consumption that has a fair value exceeding \$100 in each of two months or more during a calendar year and who holds a valid consumer's permit; (1964, c. 104, s. 1(2).)

[¶ 5050]

- 9. "regulations" means the regulations made under this Act;

[¶ 5055]

- 10. "retail sale" means a sale to a purchaser for the purpose of consumption or use and not for resale;

[¶ 5060]

11. "sale" means,

- (a) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price or other consideration a person delivers to another person tangible personal property,
- (b) the production, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, processing, printing or imprinting,
- (c) the furnishing and distribution of tangible personal property for a consideration by social clubs or fraternal organizations to their members or others,
- (d) the furnishing, preparation or service for a consideration of food, meals or drinks,
- (e) a transaction whereby the possession of tangible personal property is transferred but the vendor retains the title as security for payment of the price,
- (f) a transfer for a consideration of the title to or possession of tangible personal property that has been produced, fabricated, printed or imprinted to the order of the purchaser,
- (g) the production, fabrication, processing, printing or imprinting of tangible personal property by a person for his own consumption or use when that person furnishes either directly or indirectly the materials and labour used in such production, fabrication, processing, printing or imprinting;

(1962-63, c. 127, s. 1(2).)

[¶ 5065]

12. "storage" includes any keeping or retention in Ontario for any purpose except retail sale or subsequent use outside Ontario of tangible personal property purchased from a vendor, but does not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario;

Sec. 1—continued

[¶ 5070]

13. “tangible personal property” means personal property that can be seen, weighed, measured, felt or touched, or that is in any other way perceptible to the senses, and includes electricity, natural or manufactured gas, telephone services including long distance, and telegraph services;

[¶ 5075]

14. “tax” includes all penalties and interest that are or may be added to a tax under this Act;
15. (*repealed by 1961-62, c. 126.*)

[¶ 5080]

16. “Treasurer” means the Treasurer of Ontario;

[¶ 5085]

17. “use” includes storage and the exercise of any right or power over tangible personal property incidental to the ownership of that property, but it does not include the sale of that property at a retail sale or the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario for use thereafter solely outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario;

(1961-62, c. 126, s. 1; 1962-63, c. 127, s. 1; 1964, c. 104, s. 1; 1966, Bill No. 70, s. 2(1).)

[¶ 5090]

18. “vendor” means a person who, in the ordinary course of his business in Ontario, sells tangible personal property to a purchaser in Ontario.

[¶ 5095]

Sec. 2. Tax on purchaser.—(1) Every purchaser of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 5 per cent of the fair value thereof. (1966, Bill No. 70, s. 2(1).)

[¶ 5100]

(2) *Fair value.*—If the tangible personal property to be consumed or used is purchased at a retail sale in Ontario, the purchaser shall pay such tax computed on the fair value thereof at the time of the sale.

(3) (*Repealed by 1964, c. 104, s. 2(1).*)

[¶ 5105]

(4) *Determination of fair value.*—Where the Comptroller deems it necessary or advisable, he may determine the fair value of any such

property for the purposes of taxation under this Act, and thereupon the fair value of such property for such purpose shall be as so determined by him.

[¶ 5110]

(5) *Payment of tax on delayed delivery.*—Every purchaser who, after the coming into force of this Act, takes delivery of any tangible personal property purchased by him prior to the coming into force of this Act shall pay to Her Majesty in right of Ontario a tax at the rate of 5 per cent of the purchase price of such tangible personal property. (1966, *Bill No. 70*, s. 2(2).)

[¶ 5115]

(6) *Refund of tax.*—If a person sells any tangible personal property at a retail sale in Ontario to a person who alleges that he is not purchasing it for consumption or use in Ontario, he shall nevertheless require such person to pay the tax, but such payment shall be refunded by the Treasurer on receipt of satisfactory evidence that the tax was wrongfully paid.

(6a) (*Repealed by 1964, c. 104, s. 2(2).*)

[¶ 5120]

(7) *Tangible personal property brought into or received in Ontario.*—Every person who brings into Ontario or who receives delivery in Ontario of tangible personal property acquired by him for value for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such property for the consumption or use by such principal or other persons at his expense, shall immediately report the matter in writing to the Comptroller and shall supply him with the invoice and all other pertinent information required by him in respect of the consumption or use of such property and at the same time shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such property as would have been payable if the property had been purchased at a retail sale in Ontario. (1964, c. 104, s. 2(3); 1965, c. 117, s. 1(1); 1966, *Bill No. 70*, s. 2(3).)

[¶ 5125]

(8) *Calculation of tax.*—The tax imposed by this Act shall be calculated separately on every purchase and shall be computed to the nearest cent, and every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as one cent, but, where on the same occasion or as part of one transaction several items of tangible personal property are purchased, the total of the purchase shall be deemed to be one purchase for the purposes of this Act.

Sec. 2—continued

[¶ 5130]

(9) *Tax on merchandise tendered in trade.*—Where tangible personal property is accepted at the time of sale by a person or a vendor on account of the price of other tangible personal property sold, the purchaser shall pay a tax at the rate provided in subsection 1 calculated on the difference between the fair value of the property sold and the credit allowed for the tangible personal property accepted on account of the purchase price in trade. (1965, c. 117, s. 1(1).)

(1961-62, c. 126, s. 2; 1964, c. 104, s. 2; 1965, c. 117, s. 1; 1966, *Bill No. 70*, s. 2.)

[¶ 5135]

Sec. 3. Vendor permits.—(1) No vendor shall sell any tangible personal property in Ontario unless he has been granted upon his application a permit for each place in Ontario where he transacts business and such permit is in force at the time of the sale.

[¶ 5140]

(2) *Permit.*—Each such permit shall be issued by the Comptroller and shall be kept and conspicuously displayed at the place of business of the vendor for which the permit is issued and it is not transferable.

[¶ 5145]

(3) *Cancellation or suspension of permit.*—The Comptroller may,

(a) refuse to issue a permit to any vendor; or

(b) suspend or cancel the permit of any vendor if such vendor or any of his employees contravenes any of the provisions of this Act,

but, before a refusal, suspension or cancellation is made, the vendor shall be afforded an opportunity to appear before the Comptroller to show cause why the issuance of a permit should not be refused or why the permit should not be suspended or cancelled, as the case may be.

[¶ 5150]

(4) *Information.*—Every application for a permit shall be made in the form prescribed by the Comptroller and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as is required, and the application shall be signed,

(a) by the vendor, if a natural person;

(b) in the case of an association or partnership, by a member or partner;

(c) in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application to which shall be attached the written evidence of his authority.

[¶ 5155]

(5) *Display of permit*.—A permit issued under subsection 2 is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein.

[¶ 5160]

(6) *Term of permit*.—A permit remains in force so long as the place of business for which it is issued remains the place of business of the vendor or until suspended or cancelled, as the case may be.

[¶ 5165]

(7) *Offence*.—Every vendor who fails to comply with any provision of this section is guilty of an offence against this Act.

[¶ 5170]

Sec. 4. Sales in bulk.—(1) No person shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Comptroller that all taxes collected by such person have been paid.

[¶ 5175]

(2) *Idem*.—Every person purchasing stock through a sale in bulk as defined in *The Bulk Sales Act* shall obtain from the person selling such stock the duplicate copy of the certificate furnished under subsection 1, and, if he fails to do so, he is responsible for payment to the Comptroller of all taxes collected by the person thus disposing of his stock through a sale in bulk.

[¶ 5180]

Sec. 5. Exemptions.—The purchaser of the following classes of tangible personal property is exempt from the tax imposed by this Act:

1. food products for human consumption off the premises where sold, except candies and other confections and soft drinks;
2. prepared meals consumed on the premises where sold at a price of \$1.50 or less;
3. gasoline taxed under *The Gasoline Tax Act*;
4. gasoline used by farmers or commercial fishermen on which refunds of tax are entitled to be granted or have been granted under *The Gasoline Tax Act*;
5. fuel taxed under *The Motor Vehicle Fuel Tax Act, 1965*;
6. fuel oil not taxed under *The Motor Vehicle Fuel Tax Act, 1965*;
7. coal;
8. coke;
9. wood as defined by the Treasurer;
10. natural gas and manufactured gas as defined by the Treasurer;

Sec. 5—continued

11. electricity for all purposes ;
12. farm implements and repair parts, except electric storage batteries and tires when purchased separately ;
13. farm machinery and repair parts, except electric storage batteries and tires when purchased separately ;
14. oil-bearing seeds and seeds that will produce forage, cereal, fruit, root, vegetable and tobacco crops ;
15. fertilizers, insecticides, fungicides, herbicides, rodenticides and combinations thereof ;
16. fodder grain, mill and other agricultural feeds, as defined by the Treasurer ;
17. paper twine, binder twine, baler twine, baler wire and barbed wire ;
18. farm, hog and poultry fence, as defined by the Treasurer ;
19. agricultural products, including live stock ;
20. materials and equipment required for irrigation purposes and repairs to such equipment and drainage tile when such materials, equipment or tile is purchased by a person who with respect to the purchase of such property provides the vendor with a signed statement certifying that he is engaged in the business of farming and that such property will be used exclusively in the conduct of such business ;
21. fruit trees ;
22. shrubs and plants that produce fruit or other food for human consumption, or that produce tobacco ;
23. any tree that is sold by the Department of Lands and Forests ;
24. aircraft as defined by the Treasurer and purchased for use in foreign or interprovincial trade by an airline and repairs to such aircraft ;
25. street flushers, street sweepers and fire-fighting vehicles as defined by the Treasurer and purchased by a municipality, university or public hospital at a price of more than \$1,000 per vehicle ;
26. natural water, including ice and steam ;
27. clay, sand, gravel and unfinished stone ;
28. boats, fishing-nets and other fishing apparatus utilized in catching fish for human consumption, purchased by a *bona fide* commercial fisherman for use solely in his trade, and repairs to such boats, fishing nets or other fishing apparatus ;

29. vessels of more than 500 tons gross ;
30. drugs and medicines when sold on the prescription of a physician, dentist or veterinarian ;
31. artificial limbs ;
32. orthopaedic appliances ;
33. equipment designed solely for the use of blind persons, cripples or chronic invalids ;
34. hearing aids ;
35. dentures and dental appliances ;
36. optical appliances when sold on the prescription of a physician or an optometrist ;
37. equipment, as defined by the Treasurer and purchased in good faith for use exclusively and not for resale by a hospital that is approved as a public hospital under *The Public Hospitals Act* or that is established under *The Community Psychiatric Hospitals Act, 1960-61* or by a sanatorium as defined in *The Sanatoria for Consumptives Act* or by The Ontario Cancer Treatment and Research Foundation, and repairs to such equipment ;
38. machinery and apparatus and parts thereof, as defined by the Treasurer, that in his opinion are to be used by the purchaser thereof directly in the process of manufacture or production of tangible personal property for sale ;
39. materials, as defined by the Treasurer, that in his opinion are to be consumed or expended by the purchaser thereof directly in the process of manufacture or production of tangible personal property for sale ;
40. tangible personal property purchased for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, tangible personal property for the purpose of sale ;
41. tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 500 tons gross that normally operate in extra-territorial waters ;
42. railway rolling stock and repairs thereto ;
43. children's clothing and children's footwear as the Lieutenant Governor in Council may determine by regulation ;
44. classroom supplies, as defined by the Treasurer, purchased for use or consumption and not for resale by schools, school boards and universities ;
45. students' supplies, as defined by the Treasurer ;

Sec. 5—continued

46. books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes, but not directories, price lists, time tables, rate books, catalogues, periodic reports, fashion books, albums, or any books of the same general classes;
47. newspapers, however purchased;
48. magazines and periodicals, as defined by the Treasurer;
49. draft beer sold by the keg to the owners of licensed premises for resale by the glass on such premises;
50. draft beer sold by the glass on licensed premises;
51. food, liquor, beer or wine, the charge for which forms part of the price of admission charged a purchaser under *The Hospitals Tax Act* for admission to a place of entertainment under that Act;
52. (*repealed by 1966 Bill No. 70, s. 3(9).*)
53. works of art, as defined by the Treasurer, purchased by a museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies;
54. uncanceled Canada postage stamps and uncanceled federal and provincial revenue stamps valid for transportation of mail or for revenue purposes where the consideration for the sale thereof does not exceed the face value thereof;
55. coins made by the Royal Mint of Canada, but not any such coin that is purchased for a price greater than the face value thereof;
56. equipment, as defined by the Treasurer and that is purchased by a religious institution for use exclusively and not for resale in that part of its premises where religious worship or sabbath school is regularly conducted, and repairs to such equipment;
57. equipment, as defined by the Treasurer and that is purchased by a person licensed by the Minister of Lands and Forests to trap fur-bearing animals, and repairs to such equipment;
58. machinery and apparatus and parts thereof, as defined by the Treasurer, purchased by advertisers or their agents that, in the opinion of the Treasurer, are used to produce advertisements exclusively in newspapers or magazines;
59. religious and educational publications, as defined by the Treasurer;
60. tangible personal property purchased at a price of less than 21 cents;

61. buses, excluding school buses, when purchased in good faith to provide public transportation within a municipality as defined by the Treasurer, and repairs to such equipment;
 62. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by the governing board of a public hospital, nurses' residence, school or university and that will be incorporated into and form part of a hospital, nurses' residence, school or university building;
 63. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by a municipality or a local board thereof and that enters directly into and becomes part of the construction of capital works;
 64. tobacco products taxed under *The Tobacco Tax Act, 1965*.
 65. settlers' effects as defined by the Treasurer;
 66. cut natural evergreen Christmas trees when used for decorative purposes;
- (1961-62, c. 126, s. 3; 1962-63, c. 127, s. 2; 1964, c. 104, s. 4; 1965, c. 117, s. 2; 1966, *Bill No. 70*, s. 3.)

[¶ 5185]

Sec. 5a. Conditional exemptions.—(1) Where a person acquires title to tangible personal property by bequest or from a member of his family and no consideration is payable by the purchaser in respect of the acquisition, the tax imposed by subsection 1 of section 2 does not apply. (1961-62, c. 126, s. 4; 1964, c. 104, s. 5.)

[¶ 5190]

(2) *Interpretation.*—In subsection 1, "member of his family" means the father, mother, husband, wife, grandfather, grandmother, son, daughter, grandson, granddaughter, son-in-law, daughter-in-law, father-in-law or mother-in-law of the purchaser. (1961-62, c. 126, s. 4; 1962-63, c. 127, s. 3.)

(1961-62, c. 126, s. 4; 1962-63, c. 127, s. 3.)

[¶ 5195]

Sec. 5b. Special exemptions.—If, owing to special circumstances, it is deemed inequitable that the whole amount of tax imposed by this Act be paid, the Treasurer may, with the approval of the Lieutenant Governor in Council, exempt a purchaser from payment of the whole or any part of such tax.

(1961-62, c. 126, s. 4.)

[¶ 5200]

Sec. 6. Vendor to be collector.—(1) Every vendor is an agent of the Treasurer and as such shall levy and collect the taxes imposed by this Act upon the purchaser or consumer.

[¶ 5205]

(2) *Idem.*—No person acting under subsection 1 shall thus be made ineligible as a member of the Assembly.

[¶ 5210]

Sec. 7. Taxes collected at the time of sale.—The taxes imposed by this Act, whether the purchase price be stipulated to be payable in cash or on terms or by instalments or otherwise, shall be collected at the time of the sale on the whole amount of the purchase price and be remitted to the Treasurer at the times and in the manner prescribed by the regulations.

[¶ 5215]

Sec. 8. Accounting by vendor.—All taxes collected by a vendor under this Act shall be remitted to the Treasurer at the time or times and in such manner as are prescribed by the regulations.

[¶ 5220]

Sec. 9. Compensation to vendors.—(1) The Treasurer may enter into such arrangement with each vendor as he deems expedient for the payment of such remuneration for his services in collecting and remitting the tax as the Treasurer deems proper, and the vendor may deduct such remuneration from the amount otherwise to be remitted to the Treasurer in accordance with section 8. (1961-62, c. 126, s. 5.)

[¶ 5225]

(2) *Idem.*—No person accepting remuneration under subsection 1 shall thus be made ineligible as a member of the Assembly.

(1961-62, c. 126, s. 5.)

[¶ 5230]

Sec. 10. Returns.—(1) Every vendor shall make returns to the Comptroller and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act.

[¶ 5235]

(2) *Idem.*—Every registered consumer shall make returns to the Comptroller and shall keep such records in the form and substance as are prescribed by regulation, and any failure so to do constitutes an offence against this Act. (1964, c. 104, s. 6.)

[¶ 5240]

Sec. 11. Records of manufacturers, etc.—Every manufacturer, wholesaler, importer, jobber, agent and vendor shall keep records of all purchases and sales made by him of tangible personal property whether for consumption or use or for resale, and any failure so to do constitutes an offence against this Act.

[¶ 5245]

Sec. 12. Information to be secret.—(1) Subject to subsection 2, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

[¶ 5250]

(2) *Communication of information to other jurisdictions.*—The Treasurer may,

(a) communicate or allow to be communicated information obtained under this Act; or

(b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Treasurer, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax.

(1964, c. 104, s. 7.)

[¶ 5255]

Sec. 13. Assessment of tax collected.—(1) When a vendor having sold tangible personal property fails to make a return or a remittance as required under this Act or if his returns are not substantiated by his records, the Comptroller may make an assessment of the tax collected by such vendor for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor.

[¶ 5260]

(2) *Assessment on inspection.*—Where it appears from an inspection, audit or examination of the books of account, records or documents of any vendor or purchaser that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collected by the vendor or payable by the purchaser in such manner and form and by such procedure as the Comptroller deems adequate and expedient, and the Comptroller shall assess the amount of the tax collected by the vendor or payable by the purchaser, as the case may be.

Sec. 13—continued

[¶ 5265]

(3) *Assessment from time to time.*—The Comptroller may, at any time he considers reasonable, assess or re-assess any tax collectable by a vendor or any tax payable by a purchaser under this Act.

[¶ 5270]

(4) *Notice of assessment under subs. 1.*—Where the Comptroller has made an assessment under subsection 1, he may send by registered mail or by personal service a notice of the assessment to the vendor, requiring that the amount of the assessment made under subsection 1 be remitted to the Treasurer or otherwise accounted for.

[¶ 5275]

(5) *Proof.*—Proof that notice under subsection 4 has been mailed or served constitutes *prima facie* evidence that the amount stated therein is due and owing, and the onus of proving otherwise rests on the vendor.

[¶ 5280]

(6) *Notice of assessment under subs. 2 or 3.*—The Comptroller shall send by registered mail a notice of the assessment made under subsection 2 or 3 to the vendor or purchaser, as the case may be, at his last known address, and, where the vendor or purchaser has more than one address, one of which is in Ontario, such notice shall be sent to his address in Ontario.

[¶ 5285]

(7) *Continuation of liability for tax.*—Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

[¶ 5290]

(8) *Comptroller not bound by returns.*—The Comptroller is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act.

[¶ 5295]

(9) *Assessment valid and binding.*—An assessment, subject to being varied or vacated on an objection or appeal and subject to a re-assessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

[¶ 5300]

Sec. 14. Payment.—(1) Every vendor or purchaser shall, within thirty days from the day of mailing of the notice of assessment under subsection 4 or 6 of section 13, pay any part of the assessed tax then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

[¶ 5305]

(2) *Idem.*—Where in the opinion of the Comptroller a vendor or a purchaser is attempting to avoid payment of the tax imposed by this Act or where the Comptroller has assessed the tax payable under this Act pursuant to subsection 1, 2 or 3 of section 13, he may, notwithstanding subsection 4 or 6 of section 13, serve the notice of assessment upon the vendor or the purchaser, as the case may be, and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof, and the Comptroller may direct that all taxes as set out therein shall be paid forthwith.

[¶ 5310]

Sec. 15. Purchaser liable for tax.—The purchaser is liable for the tax imposed by this Act until it is collected, and, where the purchaser refuses to pay the tax at the time it is collected under section 7, the vendor shall immediately notify the Comptroller thereof.

(1961-62, c. 126, s. 6; 1964, c. 104, s. 8.)

[¶ 5315]

Sec. 16. Tax moneys are trust moneys.—(1) Every vendor who collects any tax under this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and is responsible for the payment over of it in the manner and time provided under this Act and the regulations.

[¶ 5320]

(2) *Tax moneys, etc., are lien.*—Every tax collectable or penalty payable by a vendor under this Act is a first lien and charge upon his property in Ontario for the amount of such tax or penalty and has priority over all other claims of any person.

(1964, c. 104, s. 9.)

[¶ 5325]

Sec. 17. Notice of objection.—(1) Where a vendor or a purchaser objects to an assessment made under section 13, he may, within sixty days from the day of mailing of the notice of assessment, serve on the Treasurer a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(1966, *Bill No. 70*, s. 4.)

Sec. 17—continued

[¶ 5330]

(2) *Service*.—A notice of objection under this section shall be served by being sent by registered mail addressed to the Comptroller.

[¶ 5335]

(3) *Reconsideration*.—Upon receipt of the notice of objection, the Treasurer shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or re-assess, and he shall thereupon notify the vendor or the purchaser, as the case may be, of his action by registered letter.

(1966, *Bill No. 70*, s. 4.)

[¶ 5340]

Sec. 18. Appeal.—(1) Where a person has served notice of objection under section 17, he may appeal to the Supreme Court to have the assessment vacated or varied after the Treasurer has confirmed or re-assessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under section 17 that the Treasurer has confirmed the assessment or re-assessed it.

[¶ 5345]

(2) *Appeals, how instituted*.—An appeal to the Supreme Court shall be instituted by serving on the Treasurer a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

[¶ 5350]

(3) *Service*.—A notice of appeal shall be served on the Treasurer by being sent by registered mail addressed to the Comptroller.

[¶ 5355]

(4) *Statement of allegations*.—The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

[¶ 5360]

(5) *Security for costs*.—An appeal under this section and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, null and void unless security for the costs of the appeal has been, within the same period, paid into court in such sum, not exceeding \$400, as the Treasurer requires and, upon

an appeal becoming null and void by virtue of this subsection, no other appeal or proceeding shall be instituted in respect of the same decision.

[¶ 5365]

(6) *Idem.*—When security has been given under subsection 5, notice thereof shall be served on the Treasurer specifying the fact and the purpose of the payment.

[¶ 5370]

Sec. 19. Reply to notice of appeal.—(1) The Treasurer shall with all due despatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

[¶ 5375]

(2) *Amendment of notice of appeal.*—The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 18 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

[¶ 5380]

(3) *Amendment to reply.*—The court or a judge may in its or his discretion,

(a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or

(b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

[¶ 5385]

(4) *Failure to comply.*—Where a notice of appeal is struck out for failure to comply with subsection 4 of section 18 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge may, in its or his discretion, dispose of the appeal by dismissing it.

[¶ 5390]

(5) *Idem.*—Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true.

[¶ 5395]

Sec. 20. Matter deemed action.—(1) Upon the filing of the material referred to in section 18 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing.

[¶ 5400]

(2) *Facts not set out may be pleaded.*—Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs.

[¶ 5405]

(3) *Disposal of appeal.*—The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Treasurer for reconsideration and re-assessment.

[¶ 5410]

(4) *Court may order payment of tax, etc.*—The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or the Treasurer, as the case may be, and may make such order as to costs as is deemed proper.

[¶ 5415]

Sec. 21. Proceedings in camera.—Proceedings pursuant to sections 18, 19, 20 and 22 shall be held *in camera* on request made to the court by the person appealing or by the Treasurer.

[¶ 5420]

Sec. 22. Supreme Court practice to govern.—The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 18, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

[¶ 5425]

Sec. 23. Irregularities.—An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

[¶ 5430]

Sec. 24. Investigations.—(1) Any person thereunto authorized by the Treasurer for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax collectable or payable under this Act;
- (b) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax collectable or payable under this Act;
- (c) require a vendor or purchaser liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such vendor or purchaser is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such vendor or purchaser to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

[¶ 5435]

(2) *Idem.*—The Comptroller may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any vendor or purchaser or, if

Sec. 24—continued

any such vendor or purchaser is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information or additional information or a return as required under section 10 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

[¶ 5440]

(3) *Idem.*—The Comptroller may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a vendor or purchaser, or from any partner, agent, or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. (1966, *Bill No. 70, s. 5.*)

[¶ 5445]

(4) *Idem.*—The Comptroller may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Office of the Comptroller of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

[¶ 5450]

(5) *Production of evidence to prove tax payable by another person.*—The Comptroller may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if

any, is collectable or payable under this Act by any vendor or purchaser, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

[¶ 5455]

(6) *Inquiry*.—The Comptroller may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Office of the Comptroller of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act.

[¶ 5460]

(7) *Copies*.—Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Office of the Comptroller of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Comptroller or a person thereunto authorized by the Comptroller to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

[¶ 5465]

(8) *Compliance*.—No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

[¶ 5470]

(9) *Idem*.—Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

[¶ 5475]

(10) *Administration of oaths*.—Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

[¶ 5480]

(11) *Powers of inquiry*.—For the purpose of an inquiry under subsection 6, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

(1966, Bill No. 70, s. 5.)

[¶ 5485]

Sec. 25. Penalty for default in filing returns.—(1) Every vendor who fails to deliver a return as and when required shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was collectable by him for the period covered by the return, if the amount of such tax was less than \$10,000; and
- (b) \$500, if the amount of such tax was \$10,000 or more.

[¶ 5490]

(2) *Failure to complete returns.*—Every vendor who fails to complete the information required on the return to be delivered under section 10 is liable to a penalty of 1 per cent of the tax collectable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100.

[¶ 5495]

(3) *False statements.*—Every person who has,

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of the vendor or purchaser;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a vendor or purchaser;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit any offence described in clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

[¶ 5500]

(4) *Liability of registered consumers to pay penalties.*—Every registered consumer who fails to deliver a return as and when required shall pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$10,000; or

(b) \$500, if the amount of such tax was \$10,000 or more.

(1964, c. 104, s. 10.)

[¶ 5505]

(5) *Idem.*—Every registered consumer who fails to complete the information required on the return to be delivered under subsection 2 of section 10 is liable to a penalty of 1 per cent of the tax payable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100.

(1964, c. 104, s. 10.)

[¶ 5510]

Sec. 26. Extended time for making returns.—The Comptroller may enlarge the time for making any return before or after the time for making it.

[¶ 5515]

Sec. 27. Interest.—(1) Any amount payable or to be remitted to the Treasurer under this Act bears interest at the rate of 6 per cent per annum from the day on which such amount should have been paid or remitted to the Treasurer to the day of payment or until thirty days following the day on which a notice of assessment is mailed under subsection 4 or 6 of section 13, whichever is the earlier date.

[¶ 5520]

(2) *Idem.*—The amount due as shown by a notice of assessment made under subsection 4 or 6 of section 13 shall, if it is not paid within thirty days from the day of mailing of the notice of assessment, bear interest at the rate of 9 per cent per annum calculated from thirty days after the day of mailing of the notice of assessment until the day of payment.

[¶ 5525]

Sec. 28. Garnishment.—(1) When the Comptroller has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

[¶ 5530]

(2) *Idem.*—The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Sec. 28—continued

[¶ 5535]

(3) *Liability of debtor*.—Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirement under this section is liable to pay Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

[¶ 5540]

(4) *Services of garnishee*.—Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

[¶ 5545]

(5) *Idem*.—Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

[¶ 5550]

Sec. 29. Recovery of tax.—(1) Upon default of payment by a vendor or purchaser of any tax collectable or payable under this Act,

(a) the Treasurer may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury;

(b) the Treasurer may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

[¶ 5555]

(2) *Compliance to be proved by affidavit.*—For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Treasurer or the Comptroller with this Act as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Treasurer or of any officer of the Office of the Comptroller of Revenue.

[¶ 5560]

Sec. 30. Remedies for recovery of tax.—The use of any of the remedies provided by sections 28 and 29 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise.

[¶ 5565]

Sec. 31. Surety bond.—(1) The Comptroller may require any vendor to deposit with the Treasurer a bond by way of cash or other security satisfactory to the Treasurer in an amount to be determined by the Comptroller but not greater than an amount equal to six times the amount of the estimated tax that would normally be collected by the vendor each month under this Act, but in no case shall the deposit be less than \$100. (1966, *Bill No. 70*, s. 6.)

[¶ 5570]

(2) *Disposal of surety bond.*—Where a vendor who has deposited a bond with the Treasurer under subsection 1 has failed to collect or remit tax in accordance with this Act, the Comptroller may, by giving written notice to the vendor by registered mail or personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the vendor as the amount due to Her Majesty in right of Ontario as of the date of the notice.

[¶ 5575]

(3) *Non-resident contractors.*—Where a non-resident contractor enters into a contract with a person, pursuant to which or in the carrying out of which tangible personal property will be consumed or used in Ontario, the non-resident contractor shall deposit with the Treasurer a sum equivalent to 3 per cent of the total amount to be paid under the contract, or shall furnish the Treasurer with a guarantee bond satisfactory to the Treasurer in a sum equivalent to 3 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the

Sec. 31—continued

carrying out of the contract and shall obtain a certificate in duplicate from the Treasurer that the requirements of this subsection have been met.

[¶ 5580]

(4) *Idem.*—Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the Treasurer as required in subsection 3 shall deduct 3 per cent of all amounts payable to the non-resident contractor and pay it over to the Treasurer on behalf of or as agent for the non-resident contractor, or shall furnish the Treasurer with a guarantee bond satisfactory to the Treasurer in a sum equivalent to 3 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. (1964, c. 104, s. 11.)

[¶ 5585]

(5) *Idem.*—Where a person dealing with a non-resident contractor fails to comply with subsection 4, he is personally liable for payment of the tax imposed by this Act in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. (1964, c. 104, s. 11; 1966, *Bill No. 70*, s. 6.)

[¶ 5590]

Sec. 32. Tax not to be absorbed by vendors.—No vendor shall advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by him or that it will not be considered as an element in the price to the purchaser, or, if added, that it or any part thereof will be refunded.

[¶ 5595]

Sec. 33. Offences.—(1) Every vendor or registered consumer who has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 for each day during which the default continues.

[¶ 5600]

(2) *Idem.*—Every person who contravenes section 10, 11 or 24 is guilty of an offence and on summary conviction is liable to a fine of \$25 for each day during which the default continues. (1965, c. 117, s. 3.)

[¶ 5605]

Sec. 34. Officers, etc., of corporations.—Where a corporation is guilty of an offence under this Act, any officer, director or agent of the

corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

[¶ 5610]

Sec. 35. General penalty.—(1) Subject to subsection 2, a person guilty of an offence against this Act is liable on summary conviction to a fine of not less than \$10 and not more than \$1,000.

[¶ 5615]

(2) *Penalty for failure to collect tax.*—Every person who fails to collect the tax imposed by this Act is liable on summary conviction to a fine equal to the amount of the tax that should have been collected as determined under subsection 3 and, in addition, an amount not less than \$10 and not more than \$1,000.

[¶ 5620]

(3) *Idem.*—The Comptroller shall determine the amount of the tax referred to in subsection 2 from such information as is available to him and shall issue a certificate as to the amount, but, except where he deems there has been deliberate evasion of this Act, the Comptroller shall not consider a period of more than three years in determining the amount of the tax referred to.

[¶ 5625]

(4) *Idem.*—In any prosecution under subsection 2, a certificate signed or purported to be signed by the Comptroller stating the amount of tax that should have been collected is *prima facie* evidence of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature.

[¶ 5630]

(5) *Idem.*—Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

[¶ 5635]

(6) *Idem.*—Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act.

Sec. 35—continued

[¶ 5640]

(7) *Disposition of fines.*—Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty in right of Ontario.

[¶ 5645]

Sec. 36. Onus of proof.—In any prosecution for failure to pay the tax or collect or remit the tax, the onus of proving that the tax was paid, collected or remitted, as the case may be, to the Comptroller is upon the accused.

[¶ 5650]

Sec. 37. Limitation.—An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose.

[¶ 5655]

Sec. 38. Evidence in prosecutions.—(1) In a prosecution against a vendor under this Act, the application form he filed for a permit under section 3 is *prima facie* evidence that the person charged is a vendor under this Act and a return filed by him is *prima facie* evidence that he collected tax under this Act.

[¶ 5660]

(2) *Idem.*—Where a vendor is described as a partnership on an application form for a permit under section 3, the application form is *prima facie* evidence that the persons named therein are members of such partnership and a return form filed by the partnership is *prima facie* evidence that the partnership collected tax.

[¶ 5665]

Sec. 39. Regulations.—(1) For the purpose of carrying into effect the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations as are considered necessary and advisable.

[¶ 5670]

(2) *Idem.*—Without limiting the generality of subsection 1, the Lieutenant Governor in Council may make regulations,

- (a) prescribing the forms and records to be used for the purpose of this Act or the regulations;
- (b) prescribing the method of collection and remittance of the tax and any condition or requirement affecting such collection or remittance;

- (c) authorizing a designated officer or class of officers to exercise any of the powers or perform any of the duties of the Comptroller under this Act;
 - (d) defining any expression used in this Act or the regulations;
 - (e) providing for the rebate of the tax in whole or in part to,
 - (i) the governing body of any religious, charitable or benevolent organization in respect of tangible personal property entering into capital investment by such organization,
 - (ii) the governing body of any hospital, nurses' residence, school or university in respect of tangible personal property that is purchased by such governing body pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of a hospital, nurses' residence, school or university building, where the personal property in respect of which the rebate is claimed was not purchased exempt from tax under this Act,
 - (iii) a municipality, or local board thereof, in respect of tangible personal property that is purchased pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of capital works, where the personal property in respect of which the rebate is claimed was not purchased exempt from tax under this Act,and prescribing the terms and conditions under which such rebates may be made;
 - (f) providing for relaxing the strictness of this Act relative to the incidence or collection of tax hereunder in special circumstances where, without relaxation, inconvenience or hardship might result, including cases involving the purchase of tangible personal property at bazaars and rummage sales;
 - (g) providing for the rebate of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such rebates may be made.
- (1961-62, c. 126, s. 7; 1964, c. 104, s. 12; 1966, *Bill No. 70*, s. 7.)

[¶ 5675]

Sec. 40. Commencement.—(1) Every vendor who is in business on the 1st day of May, 1961, shall apply for a permit under subsection 4 of section 3 before the 15th day of July, 1961.

[¶ 5680]

(2) *Idem.*—Subject to subsection 1, section 3 comes into force on the 1st day of August, 1961.

[¶ 5685]

(3) *Idem.*—Subject to subsections 1 and 2, this Act comes into force on the 1st day of September, 1961.

[¶ 5690]

Sec. 41. Short title.—This Act may be cited as *The Retail Sales Tax Act, 1960-61* (as amended).

ONTARIO

RETAIL SALES TAX REGULATIONS

(O. Reg. 232/61 as amended)

[¶ 6001]

DEFINITIONS

1. In the Act and this Regulation,

[¶ 6005]

1. "agricultural feeds" includes all feed for livestock, all hay and straw, and any drug or medicine fed to or injected into livestock or poultry;

[¶ 6010]

2. "agricultural products" means products produced by a person engaged in the business of farming and includes tobacco plants, food for human consumption or for livestock, plants and trees that produce food for human consumption or livestock, seeds and fertilizers, but does not include sod, cut flowers or any plants, seeds or shrubs that are not exempt under section 5 of the Act unless the person producing such sod, cut flowers, plants, seeds or shrubs produces them on his farm and sells them from the premises of his farm at a fair value of not more than \$100 in each of two months during a calendar year;

[¶ 6015]

3. "as part of one transaction" does not include a transaction or transactions where several articles are purchased from different departments of the same vendor;

[¶ 6020]

4. "boats, fishing nets and other fishing apparatus utilized in catching fish for human consumption, purchased by a *bona fide* commercial fisherman for use solely in his trade" includes the following classes of tangible personal property when purchased by a person, who, with respect to the purchase of such property, provides the vendor with a signed statement certifying that he is engaged in the business of commercial fishing and that such property will be used exclusively in the conduct of such business:

[¶ 6025]

BOATS AND GENERAL

anchors and chain	paint (if used for boat)
barometers	pumps (water and fuel)
blocks, chocks and turnbuckles	gear and galley
boat bailers (hand bailer)	radio and radio equipment
boats and scows	radio telephones (ship to shore)
bolts (when part of boat)	rope and wire cable (if used on boat or net)
charts and tide tables	sails, oars and row locks
depth sounders	seam fillers
direction finders	signal bells and horns
engines for boats (tanks, propeller power take-off, shaft, stuffing box, reduction gear)	steering wheels
links and shackles for anchor	tarpaulins and hatch covers
navigation lights and port-lights (boat window)	ventilators
	wood, iron, etc., when component part of fish trap

[¶ 6030]

FISHING GEAR

buoys (indicate location of net)	otter trawl leather (part of net)
burlap net covers (covers net when not in use)	sinkers
fish hooks, gaffs and jigs	trolling springs and swivels
fish nets and netting, fish lines	(part of line)
net dye	winch (gurdies)

[¶ 6035]

5. "books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes" includes all loose-leaf sheets or pages that are printed and punched for insertion in a ring or post binder and that are published solely for educational, technical, cultural or literary purposes, and all books that are printed and bound with permanent binding for those purposes, but does not include directories, price lists, time tables, rate books, catalogues, periodic reports, fashion books, albums, ring or post binders, paper ruled for accounting or bookkeeping purposes, loose-leaf sheets or pages that are printed and punched for insertion in directories, price lists, time tables, rate books, catalogues, periodic reports, fashion books or albums, and does not include any other books or articles of the same general classes;

[¶ 6040]

6. "candy" does not include chocolate, sugar or honey sold for cooking purposes;

Reg. 1—continued

[¶ 6045]

7. “capital investment” of a religious, charitable or benevolent organization means the result of any construction project that, when complete, is real property;

[¶ 6050]

8. “capital works” means any construction project that, when complete, is real property;

[¶ 6055]

9. “catalogues” includes bound, stitched, sewed or stapled books or pamphlets containing a list and description of goods, wares, merchandise or services, with specific information, with or without price, but does not include a sales catalogue, a sales pamphlet or a sales hand bill;

[¶ 6060]

10. “children’s clothing” means,

- (a) children’s dresses, suits, coats, blouses, sweaters, undershirts, pyjamas, combinations, snow-suits, overalls, and such other children’s garments that fit the upper half or the whole body up to and including girl’s commercial trade size designation 14X or boy’s commercial trade size designation 15, or “Canada Standard Size” 34A, depending upon the size designation applicable;
- (b) children’s trousers, slacks, jeans, slims, undershorts, briefs, outer shorts, and other children’s garments that fit at or below the waist up to and including girl’s and boy’s commercial trade size designation 14 or “Canada Standard Size” 34Y, depending upon the size designation applicable;
- (c) boy’s dress and sport shirts up to and including commercial trade size designation 14 or “Canada Standard Size” 13½ neck, depending upon the size designation applicable;
- (d) children’s hose up to and including girl’s commercial trade size designation 9½ and boy’s commercial trade size designation 10;
- (e) children’s hats up to and including girl’s commercial trade size designation 22 and boy’s commercial trade size designation 7;
- (f) children’s gloves up to and including girl’s and boy’s commercial trade size designation 7;

[¶ 6065]

11. “children’s footwear” means footwear up to and including boy’s commercial trade size designation 6 in shoes for males and up to and including commercial trade size designation 6 in styles designed for girls;

[¶ 6070]

12. “classroom supplies” means instructional equipment including all science and other experimental equipment, physical training equipment, musical instruments, schoolroom furniture, chalk, blackboard equipment, printing and duplicating machines, but no other equipment, tools, stationery or other material except supplies that are purchased by a school board or university for the use or consumption of students in exercising their functions as students and that are not sold to them but are given to them by the school, school board or university free of monetary consideration;

[¶ 6075]

13. “coal” includes briquettes and charcoal and similar items specifically prepared and packaged for barbecue installations;

[¶ 6080]

14. “commercial trade size designation 6 in styles designed for girls” does not include footwear of any type or of any size with a heel height exceeding one inch or shoes designed for nurses in oxford style or for matrons as corrective shoes and, where female footwear is normally designated by the manufacturer as “small”, “medium” and “large”, the classifications designated “medium” and “large” are excluded from “commercial trade size 6 designed for girls”;

[¶ 6085]

15. “confections” includes chocolate coated nuts and preparations of fruits, nuts or popcorn in combination with chocolate, sugar or honey;

[¶ 6090]

16. “construction contract” means a contract for erecting, remodelling or repairing a building or other structure on land and includes lump-sum, cost-plus and time and material contracts, but does not include a contract for the sale and installation of machinery, appliances or equipment that the contractor has sold;

Reg. 1—continued

[¶ 6095]

17. “containers” means the articles and devices in which tangible personal property is placed for shipment and delivery, such as wrapping materials, bags, cans, twines, gummed tapes, barrels, boxes, bottles, drums, carboys, cartons, sacks, and materials from which such containers are manufactured;

[¶ 6100]

18. “contractor” means a person who engages in the business of constructing, altering, repairing, or improving real property for others and includes,

(a) general contractors and subcontractors;

(b) carpenter, bricklaying, stonemason, plaster, sheet metal, steel, tile and terrazzo, electrical, plumbing, heating, air conditioning, insulating, ventilating, papering, bridge, road, roofing, painting, decorating, cement and paving contractors; and

(c) other persons,

who install on or incorporate into real property, tangible personal property for a person other than themselves, but when a contractor manufactures tangible personal property for sale and acts as a manufacturer as defined in this Regulation, he shall be regarded, while he is engaged in the manufacture of such tangible personal property, as a manufacturer and not as a contractor;

[¶ 6105]

19. “dentures” and “dental appliances” include gold, amalgam, porcelain or any other kind of dental filling and the materials necessary to be used by a dentist for the purpose of being processed, fabricated into, attached to or incorporated into a denture or dental appliance but do not include any instrument or other equipment used by a dentist in performing an operation for his patient;

[¶ 6110]

20. “dentist” means a person legally qualified and entitled to practise the profession of dentistry in Ontario;

[¶ 6115]

21. “drugs and medicines” includes:

(a) X-ray pictures;

(b) any substance, mixture of substances and any article that may be used for the diagnosis, treatment, mitigation or prevention of disease in man or animal; and

(c) any substance or mixture of substances that may be used in restoring, correcting or modifying organic functions;

but does not include weight reducing dietary supplements as defined by the Treasurer, disinfectants such as creoline, rodent exterminators, cosmetics of all kinds, medicated or otherwise, including hair tonics, shampoos, toothpastes, shaving creams, beauty aids and toiletries, depilatories and perfumes;

[¶ 6120]

22. “drugs and medicines when sold on the prescription of a physician, dentist or veterinarian” includes drugs and medicines administered by a physician, dentist or veterinarian and those administered to patients in a hospital;

[¶ 6125]

23. “farm implements” and “farm machinery” include:

(a) all implements and machinery designed for farm use that are drawn, propelled or powered by motor or animal power, except,

bale elevators and loaders

balers

barn water systems

combines

cultivators

dusters

electric motors for farm equipment

farm circular saws

feed mixers

grain cleaners

grain dryers

grain elevators

grain picklers and treaters

hay presses

manure loaders

milk coolers

mowing machines

pumps

roto-tillers and weeders

sprayers

tractors

(b) the following classes of tangible personal property:

brooders

chick and poultry founts, parts and controls

cow chains and stanchions

cow halters

cow stanchions

cream separators

electric fences

feed cookers

hay and grain slings

hen specks

metal egg-laying nests

milking machines

poultry feeders, waterers and automatic shut-offs

scufflers

steel haystack forms

teat dilators

Reg. 1—continued

- (c) the following classes of tangible personal property when purchased by a person who with respect to the purchase of such property provides the vendor with a signed statement certifying that he is engaged in the business of farming and that such property will be used exclusively in the conduct of such business:

bale elevators and loaders	grain picklers and treaters
balers	hay presses
barn water systems	livestock feeders
combines	livestock watering troughs
cultivators	livestock weigh scales
dusters	manure loaders
egg washers	milk coolers
electric motors for farm equipment	mowing machines
farm circular saws	pumps
feed mixers	roto-tillers and weeders
fence posts	sprayers
grain cleaners	tobacco lath
grain dryers	tractors
grain elevators	

[¶ 6130]

24. “farm implements” and “farm machinery” do not include,

bulldozer equipment	stoves
grease guns	tanks
lighting plants	tools
pulleys	trailers
refrigerators	truck boxes
rope	washing machines

[¶ 6135]

25. “fertilizers” includes agricultural lime and peat moss when it is purchased by a person who with respect to the purchase thereof provides the vendor with a signed statement certifying that he is engaged in the business of farming and that such lime and moss will be used exclusively in the treatment of the soil;

[¶ 6140]

26. “food products” does not include prepared meals, soft drinks, chewing gum, lozenges, candies, confections, dog, cat, bird and other animal foods, root beer and root beer extracts, malt and malt extracts;

[¶ 6145]

27. “fuel oil not taxed under *The Motor Vehicle Fuel Tax Act*” includes kerosene when used for heating or lighting;

[¶ 6150]

28. “livestock” means cattle, sheep, goats, hogs, poultry, horses, mules, ponies, donkeys and bees, but does not include pets such as cats, dogs and other small animals, live fish and birds;

[¶ 6155]

29. “local board” means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;

[¶ 6160]

30. “magazines and periodicals as defined by the Treasurer” includes school yearbooks and magazines and periodicals if they are “books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes” but not magazines and periodicals of any other classification;

[¶ 6165]

31. “manufactured gas” means artificial gas intended to be used as fuel for lighting or heating but does not include oxygen, acetylene, argon, nitrogen, hydrogen, carbon dioxide, compressed air, nitrous oxide or helium except when any of them is purchased for use as fuel lighting or heating;

[¶ 6170]

32. “manufacturer” means a person who is deemed to be a manufacturer under Schedule III of the *Excise Tax Act* (Canada), but when a manufacturer uses tangible personal property which he has manufactured or fabricated for his own consumption or use in the performance of a construction contract, he shall be regarded as the purchaser of such manufactured tangible personal property;

Reg. 1—continued

[¶ 6175]

33. “manufacturing contractor” means a manufacturer who fabricates or manufactures tangible personal property for his own consumption or use in the performance of construction contracts;

[¶ 6180]

34. “municipality” means the Metropolitan Area within the meaning of *The Municipality of Metropolitan Toronto Act* and the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes in an unorganized township or unsurveyed territory;

[¶ 6185]

35. “natural gas” means natural gas intended to be used as fuel for heating or cooking;

[¶ 6190]

36. “natural water” includes water that has been treated for the control of impurities in the interest of public health;

[¶ 6195]

37. “newspapers” means printed publications usually daily or weekly, containing the news, advertisements and literary matter, but does not include trade journals, magazines containing articles by various writers, and periodicals of any kind or nature;

[¶ 6200]

- 37a. “non-resident contractor” means a contractor, whether an individual or a corporation, who has not maintained in Ontario continuously for a period of twelve months immediately preceding the date of the signing of any particular contract a permanent establishment as defined in subsections 1 to 7 of section 2 of *The Corporation Tax Act* in respect of corporations;

[¶ 6205]

38. “oculist” means physician who specializes in diseases of the eyes and whose services include, in addition to the examination of the eyes and treatment of diseases pertaining to sight, the prescription of glasses or spectacles where necessary;

[¶ 6210]

39. “optical appliances” means any lenses ground to correct any visual or muscular error or defect of the eye and includes the frame or other apparatus to which any such lenses are attached in order to maintain them in place on the face of the wearer and repair parts to such frame or other apparatus, but does not include any other frame or apparatus;

[¶ 6215]

40. “optician” means the manufacturer and vendor of glasses or spectacles;

[¶ 6220]

41. “optometrist” includes an oculist and means a person who examines the eyes for the purpose of determining if glasses are necessary and, if so, prescribes for them;

[¶ 6225]

42. “orthopaedic appliances” includes trusses and parts, surgical supports and appliances and parts, spinal braces, sacro-iliac belts and supports, elastic hosiery, but does not include shoulder braces, athletic supports, suspensories, arch, ankle, knee and like supports, including bracer and sporter types;

[¶ 6230]

43. “parts” means such parts, repairs and accessories as are specially designed for the manufacture, repair and replacement of the particular articles of tangible personal property to which reference is made in the Act, but does not include items of tangible personal property suitable as parts, repairs and accessories for the manufacture, repair or replacement of articles to which reference is made in the Act as well as to other articles and does not include motor car radios, rear vision mirrors and other accessories not affixed at the factory and forming part of the machine or vehicle when sold or any item of tangible personal property commonly known as an accessory that may be purchased separately and affixed to any article that is tangible personal property;

[¶ 6235]

44. “person engaged in the business of farming” means a person who produces agricultural products on his farm, but while such person, in the ordinary course of his business, sells tangible personal property other than agricultural products,

Reg. 1—continued

he shall be regarded as a vendor and not as a person engaged in the business of farming;

[¶ 6240]

45. "physician" means a legally qualified medical practitioner;

[¶ 6245]

46. "premises" means the entire building, tent or other structure, together with contiguous lands or any lands whether enclosed or not, in or on any part of which the vendor, by permission, licence, grant, privilege or by any other right whatsoever, makes sales, but in business blocks, apartments or other buildings in which separate and distinct rooms and apartments are owned, leased or occupied by more than one tenant, such separate and distinct rooms or apartments constitute separate premises, and include hotels, tourist courts, motels, boarding houses and other lodging places;

[¶ 6250]

47. "prepared meals" includes soft drinks, sodas and other non-alcoholic beverages served as a composite part of a prepared meal and any food or food products purchased for consumption on the premises where purchased including such items as sandwiches, hamburgers, hot dogs, and other arrangements of food in such form as may be eaten on the premises where sold even when such preparations are consumed elsewhere, but does not include spirituous, malt or vinous liquors or other alcoholic beverages when served with a prepared meal or food items sold in the original package in which they were enclosed without any processing by the vendors;

[¶ 6255]

48. "prescription" means a formula or direction given in writing by a physician, dentist or veterinarian of a remedy for or as a treatment for a disease or a disorder, prescribing the ingredients with or without the method of using;

[¶ 6260]

49. "price list" means numerical or alphabetical enumeration of goods, wares, merchandise items or services, quoting wholesale or retail prices or both and printed on cards or sheets of paper presented in loose-leaf form, stapled, stitched or bound;

[¶ 6265]

50. “producing,” “fabricating,” “processing,” “printing” and “imprinting” include any operation that results in the creation or production of tangible personal property or that is a step in a process or series of operations resulting in the creation or production of tangible personal property, but do not include operations that constitute exclusively the labour involved in the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced;

[¶ 6270]

51. “railway rolling stock” means rolling stock capable of operating exclusively on rails as distinct from pavements or other roads;

[¶ 6275]

52. “registered vendor” means a vendor who holds a valid vendor’s permit issued under section 3 of the Act;

[¶ 6280]

53. “sales catalogue” means a book that is printed and bound in which the person producing such book describes the goods and services he is offering for sale and the prices thereof and which he distributes amongst prospective customers so that they may order from him any of the goods and services offered at the prices indicated, but does not include promotional brochures or advertising material produced by manufacturers or others for general distribution either directly or through dealers;

[¶ 6285]

54. “sales pamphlet” includes a sales hand bill and means an unbound printed work in which the person producing such printed work describes the goods and services he is offering for sale and the prices thereof and which he distributes amongst prospective customers so that they may order from him any of the goods and services offered at the prices indicated, but does not include promotional leaflets or advertising material produced by manufacturers or others for general distribution either directly or through dealers;

[¶ 6290]

55. “soft drinks” means non-alcoholic beverages consisting of,
(a) fruit juices, flavouring or sweetening or any combination of them, and carbonated water;

Reg. 1—continued

- (b) soda, sparkling water and mineral water; and
- (c) non-carbonated fruit juice beverages containing less than 25% by volume of a natural fruit juice or combination of natural fruit juices or a natural fruit juice or combination of natural fruits that have been reconstituted into the original state,

whether sold in bottles or other containers or by the glass and whether they are manufactured or prepared at soda fountains, and includes preparations which when added to water produce a drink that is a soft drink as defined;

[¶ 6295]

56. "students' supplies" means,

- (a) blank exercise and work-books whether or not lined but excluding such books as are ruled for bookkeeping or accounting purposes;
- (b) loose-leaf paper punched for insertion in a loose-leaf binder but excluding such paper as is ruled for bookkeeping or accounting purposes and all loose-leaf paper that is not punched for insertion in a loose-leaf binder;
- (c) books for drawing upon;
- (d) music manuscript paper; and
- (e) school-bags and satchels;

[¶ 6300]

57. "tangible personal property" does not include gold in its primary forms including bullion, dore, ingot, bar, specie, grain, sheet, foil, powder, sponge, wire, rod and tube that must be further worked or manufactured, alloyed or fabricated in order to be processed into dental gold, jewellers' supplies and supplies required by industry in other fields;

[¶ 6305]

57a. "tangible personal property accepted on account of the purchase price in trade" as used in subsection 9 of section 2 of the Act means tangible personal property of the same general character and kind as the tangible personal property for which the purchase price referred to is being paid and includes no other tangible personal property;

[¶ 6310]

58. "unfinished stone" includes crushed stone and what is generally known as blast furnace slag but does not include any

stone on which chipping or work other than crushing has been performed in order for the stone to be capable of being mortared to another piece of stone in building a stone structure;

[¶ 6315]

59. “vendor” includes a person who has no fixed place of business in Ontario and an agent who makes sales on behalf of a principal, but does not include,

(a) the owner or operator of a hotel, tourist court, motel, boarding house or other lodging place operating exclusively on the American plan where the charge for lodging and meals is less than \$6.50 per day;

(b) the owner or operator of a nursing home where the charge for nursing care, lodging and meals is less than \$9.50 per day; or

(c) a person engaged in the business of farming while that person is not engaged in any other activity but the business of farming,

and where used in subsection 9 of section 2 of the Act includes any seller;

[¶ 6320]

60. “veterinarian” means a person duly qualified and registered under *The Veterinarians Act*;

[¶ 6325]

61. “wood” means wood shavings and wood sawdust and any wood intended to be used as fuel and does not include any other kind of wood.

[¶ 6370]

Vendors and Vendors' Permits

2. (1) Where a vendor has no fixed place of business in Ontario he shall keep his vendor's permit on his person at all times while doing business and produce it upon request to a purchaser or a duly authorized representative of the Comptroller.
- (2) Where an agent makes sales on behalf of a principal and does not have any fixed place of business of his own, his principal shall obtain for him a vendor's permit and the agent shall keep such permit on his person at all times while doing business and produce it upon request to a purchaser or a duly authorized representative of the Comptroller.

Reg. 1—continued

- (3) Where a vendor changes his address, he shall forthwith return his vendor's permit to the Comptroller for amendment and apply for a new one.
- (4) Where a vendor changes the name or nature of his business, he shall forthwith return his vendor's permit to the Comptroller and apply for a new one.
- (5) Where a vendor ceases to carry on business in respect of which a vendor's permit has been issued, the permit is thereupon void and he shall return it to the Comptroller within fifteen days of the date of discontinuance.
- (6) Where a vendor's permit is lost or destroyed, application shall immediately be made to the Comptroller for a copy of the original.

[¶ 6375]

Responsibilities of Vendors

3. (1) Where a vendor sells tangible personal property to a person who alleges that it is exempt from tax under paragraph 38, 39 or 40 of section 5 of the Act or that it is being purchased for purposes of resale, the purchaser shall provide the vendor with a purchase exemption certificate.
- (2) The purchase exemption certificate required by subsection 1 is invalid unless the purchaser is a vendor and the purchase exemption certificate discloses the number of his vendor's permit under the Act.
- (3) Where a purchaser fails to submit a purchase exemption certificate in valid form, the vendor shall collect tax from the purchaser calculated on the price charged for the tangible personal property sold.
- (4) Where a vendor purchases tangible personal property for his own consumption or use in the exercise of his business, he shall not give his supplier a purchase exemption certificate certifying that the tangible personal property being purchased is to be used for a non-taxable purpose and he shall pay tax to his supplier on the price charged therefor.
- (5) Subsection 4 does not apply where the purchaser is a vendor who is the holder of a "G" permit as provided in section 6.
- (6) Where a vendor has paid tax on tangible personal property that he has purchased and such tax was paid erroneously under one of the conditions set out under subsection 7 or because he failed or was unable to provide his supplier with a purchase exemption certificate at the time of purchase, he

may apply for a refund under subsection 6 of section 2 of the Act upon production of evidence satisfactory to the Comptroller that such tax was so paid.

- (7) The conditions referred to in subsection 6 are,
- (a) the vendor when making the purchase intends to use the tangible personal property rather than resell it but later resells it before making any use thereof;
 - (b) the vendor purchases the tangible personal property for consumption or use but resells it before making any use thereof other than retention for the purposes of demonstration and display while holding it for sale in the regular course of business;
 - (c) the particular property is of a kind not ordinarily sold or stocked by the vendor and not customarily covered by purchase exemption certificates given by the vendor to his suppliers and is subject to an unusual sale, such as a sale for the accommodation of a customer, employee or other person;
 - (d) the particular property is generally for the consumption or use of the vendor but a small portion is incidentally resold; or
 - (e) through error, the tax is paid by the vendor with respect to the purchase price of tangible personal property purchased for resale in the regular course of business.

[¶ 6380]

Purchase Exemption Certificates

4. (1) A purchase exemption certificate referred to in section 3 may be,
- (a) a single purchase exemption certificate; or
 - (b) a blanket purchase exemption certificate,
- and may be in any form prescribed by section 5.
- (2) A single purchase exemption certificate may be used only with respect to each order of tangible personal property.
- (3) Where a purchaser supplies a vendor with a valid blanket purchase exemption certificate, such certificate remains valid until revoked by the purchaser or cancelled by the Comptroller and such a purchaser is not required to execute additional purchase exemption certificates for individual purchases so long as there is no change in the character of his operation

Reg. 4—continued

and no change in the character of the tangible personal property referred to in the original blanket purchase exemption certificate, but the blanket purchase exemption certificate so issued is ineffective with respect to orders that follow the original order covered by the original blanket purchase exemption certificate unless reference is made thereto by the purchaser on each purchase order issued for subsequent purchases of tangible personal property by that purchaser and such reference shall take the form prescribed by subsection 3 of section 5.

- (4) Where a vendor receives an order from a purchaser on which a purchase exemption certificate is indicated either by rubber stamp or by reference to a single or blanket purchase exemption certificate, the vendor may sell the tangible personal property ordered without charging tax thereon, and he will have no responsibility for collecting tax with respect to the tangible personal property so ordered even if the tangible personal property purchased is or may be deemed to be taxable in the hands of the purchaser.
- (5) Where a purchaser does not provide the vendor of tangible personal property with properly executed purchase exemption certificates in one of the forms prescribed by section 5, the vendor of such tangible personal property will deem the sale to be a retail sale and in each case shall collect tax on the fair value of such property unless it is otherwise exempt under the Act and the burden of proving that such sale is not a retail sale shall be upon the vendor.
- (6) Where a purchaser has provided his supplier with a valid blanket purchase exemption certificate that covers a class of tangible personal property that he regularly buys from the supplier and subsequently orders an additional amount of the same class of tangible personal property from the same supplier by telephone, the vendor of such tangible personal property may make the sale thereof without collecting tax and be free from collecting tax thereon if he inserts on the invoice he prepares for the sale of the goods the number of the applicable purchase exemption certificate made by the purchaser and the number of the vendor's permit of the purchaser and retains a copy of such invoice on file.
- (7) Where a purchaser orders tangible personal property by telephone and the vendor has not received a blanket purchase exemption certificate that covers the class of goods so ordered, the sale thereof shall be deemed to be a retail sale and he must collect tax thereon.

- (8) A purchase exemption certificate to be valid shall,
- (a) include the vendor's permit number held by the purchaser;
 - (b) include his name or the name under which he transacts business; and
 - (c) where the purchase exemption certificate is a single certificate that takes the form of a printed piece of paper, include a list of the tangible personal property being purchased pursuant to the certificate.
- (9) A purchase exemption certificate shall not be used to obtain tangible personal property free of tax unless such property is for resale or is exempt from tax pursuant to paragraph 38, 39 or 40 of section 5 of the Act.
- (10) Where a purchase exemption certificate is used in contravention of subsection 9, the purchaser is liable to have his vendor's permit suspended or cancelled under subsection 3 of section 3 of the Act on the grounds that he made use wrongfully of a purchase exemption certificate.
- (11) Any person who provides his supplier with a purchase exemption certificate knowing that the tangible personal property he is purchasing is not to be resold by him in the regular course of his business or is to be used for a purpose other than that certified by him in the purchase exemption certificate is guilty of an offence against the Act.

[¶ 6385]

Forms

5. (1) Purchase exemption certificates referred to in section 3 may be printed, typed or handwritten in any one of the following forms or any combination of them depending upon the type of certificate that is applicable in the circumstances:

A. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate

I/we hereby certify:

1. That I hold vendor's permit number and that it was issued under subsection 2 of section 3 of *The Retail Sales Tax Act*;
2. That I am engaged in the business of selling

Reg. 5—continued

3. That the tangible personal property
which is described as :

.....

and which I shall buy from,

(name)

(address)

is being purchased for resale.

Dated:19.....

(signature of purchaser)

at

(address)

[¶ 6390]

B. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate

I/we hereby certify :

1. That I hold vendor's permit number
..... and that it was issued under
subsection 2 of section 3 of *The Retail
Sales Tax Act*;

2. That I am engaged in the business of
selling

3. That the tangible personal property
which is described as :

.....

and which I shall buy from :

(name)

(address)

is being purchased to be,

- (a) used, consumed or expended directly
in the process of manufacture or pro-
duction of tangible personal property
for the purpose of sale, or

- (b) processed, fabricated or manufac-
tured into, attached to or incorporated
into, tangible personal property for the
purpose of sale.

Dated19.....

(signature of purchaser)

at

(address)

[¶ 6395]

C. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate

(Blanket) Number

I/we hereby certify:

1. That I hold vendor's permit number issued under subsection 2 of section 3 of *The Retail Sales Tax Act*;
2. That the tangible personal property which I shall buy from:
 (name)
 (address)
 will be either,
 (a) resold, or
 (b) used, consumed or expended directly in the process of manufacture or production of tangible personal property for sale, or
 (c) processed, fabricated or manufactured into, attached to or incorporated into, tangible personal property for sale.

3. General description of property to be purchased:

.....

Dated19... ..
 (signature of purchaser)

at
 (address)

- (2) Purchase exemption certificates referred to in section 3 may be made by impressing on each purchase order a rubber stamp in any one of the following forms or in a form combining any or all of the certificates enumerated depending upon the type of certificate that is applicable in the circumstances:

Reg. 5—continued

[¶ 6400]

A. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate
for Resale

I/we certify that the tangible personal property ordered herein is purchased for the purposes of resale.

Vendor's Permit No.
Name of Purchaser

[¶ 6405]

B. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate
for Machinery and Apparatus

I/we certify that the tangible personal property ordered herein is machinery and apparatus and parts thereof declared to be exempt as production machinery in Schedule III of the *Excise Tax Act* and that it will be used directly in the process of manufacture or production of goods for sale.

Vendor's Permit No.
Name of Purchaser

[¶ 6410]

C. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate
for Consumable Materials

I/we certify that the tangible personal property ordered herein is material declared to be exempt as processing materials in Schedule III of the *Excise Tax Act* and that it will be consumed or expended directly in the process of manufacture or production of goods for sale.

Vendor's Permit No.
Name of Purchaser

[¶ 6415]

D. ONTARIO RETAIL SALES TAX

Purchase Exemption Certificate
for Goods to be Wrought into
other Goods for Sale

I/we certify that the tangible personal property ordered herein is to be processed, fabricated into, attached to or incorporated into, tangible personal property for sale.

Vendor's Permit No.
Name of Purchaser

- (3) The reference required to be made to a blanket purchase exemption certificate by subsection 4 of section 4 may be typed or written or stamped by means of a rubber stamp on the purchase order in substantially the following words:

[¶ 6420]

ONTARIO RETAIL SALES TAX

I/we certify that the tangible personal property ordered herein is covered by blanket Purchase Exemption Certificate numbered
issued by authority of:

Vendor's Permit No.

Dated 19.....
Name of Purchaser

at
Address

[¶ 6425]

"G" Permits

6. (1) The holder of a "G" permit is authorized at his discretion to purchase free of tax tangible personal property without the issuance of purchase exemption certificates as required under section 3 whether or not such property is exempt from tax under paragraph 38, 39 or 40 of section 5 of the Act or is being purchased for resale.
- (2) When the holder of a "G" permit wishes to purchase tangible personal property free of tax, he shall notify his supplier that he is the holder of a "G" permit by placing the number thereof on his purchase order form.

Reg. 6—continued

- (3) Every holder of a “G” permit shall declare on his monthly tax return the value of the tangible personal property purchased free of tax for his own consumption or use and shall remit the tax due on such purchases directly to the Treasurer.
- (4) Where the holder of a “G” permit buys tangible personal property outside Ontario, he shall declare in his monthly tax return the value of the tangible personal property that he received in Ontario from points outside Ontario during the month for which such return is being filed and shall remit the tax due on such purchases directly to the Treasurer.
- (5) A vendor may obtain a “G” permit upon application in writing where it is established that,
 - (a) that the sales made by the vendor to purchasers in Ontario exceed \$2 million per annum;
 - (b) that the records of the vendor are audited annually by a recognized firm of public accountants and that the auditors’ report to the vendor, his directors or shareholders is available for inspection by the Comptroller and that the date of the report is less than one year prior to the date of the application for a “G” permit; and
 - (c) that in the opinion of the Comptroller the credit rating of the vendor is sound.

[¶ 6430]

Registered Consumer

7. (1) A person who is not the holder of a vendor’s permit but who brings into Ontario or who receives delivery in Ontario of tangible personal property that he has purchased outside Ontario and that has a fair value exceeding \$100 in each of two months or more during a calendar year shall register with the Comptroller as a registered consumer.
- (2) A person registered as a registered consumer shall hold a consumer registration certificate issued by the Comptroller in the prescribed form.
- (3) The possession of a consumer registration certificate does not permit the holder to purchase free of tax tangible personal property within Ontario by the issuance of exemption certificates, such exemption certificates being authorized for use only by the holder of a vendor’s permit.
- (4) Where a registered consumer ceases to buy tangible personal property outside Ontario in an amount exceeding \$100 in each of two months or more during a calendar year, the Comptroller may cancel his consumer registration certificate.

[¶ 6435]

Monthly Tax Returns

8. (1) On or before the twenty-third day of each month, every vendor shall make a return to the Comptroller in the prescribed form,
- (a) of all sales of tangible personal property made by him; and
 - (b) of all purchases of tangible personal property he made upon which he paid no tax to the vendor thereof at the time of purchase by reason of the issuance of purchase exemption certificates or otherwise and upon which tax is payable pursuant to section 2 of the Act,
- during the calendar month immediately preceding and shall remit to the Treasurer the tax collectable and payable by him during that month.
- (2) On or before the twenty-third day of each month, every registered consumer shall make a return to the Comptroller in the prescribed form of all purchases of tangible personal property he made outside Ontario and brought into or received in Ontario during the calendar month immediately preceding and shall remit to the Treasurer the tax payable by him during that month.
- (3) Notwithstanding subsections 1 and 2, the Comptroller may at any time require a vendor or a registered consumer to make a return covering such period and including such information as the Comptroller may determine and the vendor or registered consumer shall remit to the Treasurer thereof the tax collectable or payable by him or the tax collectable and payable by him during such period.
- (4) Notwithstanding subsection 1, the Comptroller may, upon application in writing, authorize
- (a) a vendor who maintains his records so that he closes his books at the end of periods that do not coincide with calendar months but are never longer in duration than five weeks; or
 - (b) a vendor who maintains his records so that he closes his books at the end of periods that are longer in duration than calendar months but never longer in duration than two months and who would be entitled on application to be granted a "G" permit under subsection 5 of section 6, to file the returns required by subsection 1 with respect to such periods as are shorter or longer than calendar months.

Reg. 8—continued

- (5) Where the Comptroller has authorized a vendor to file returns for periods shorter or longer in duration than calendar months under subsection 4, the vendor shall, on or before the 1st day of March in each subsequent year, provide the Comptroller with a statement indicating the precise dates upon which the vendor will end each such period during the calendar year or part thereof, as the case may be, commencing on the 1st day of April following.
- (6) Where the Comptroller has authorized a vendor to file returns for periods shorter or longer in duration than calendar months under subsection 4, the vendor shall make each return required by subsection 1 on or before the twenty-third day following the close of each such period, and the return shall provide the Comptroller with the information required by subsection 1 in respect of each period that closes twenty-three days before the date on or before which such return is due to be filed.
- (7) Notwithstanding subsection 1, the Comptroller may authorize or require any vendor whose taxable sales never exceed \$100 in each of two consecutive months in a calendar year to file his returns under the Act for periods longer than one month and not exceeding six months in duration.
- (8) In any case where the Comptroller has authorized or required a vendor to file returns for extended periods under subsection 7, the vendor shall make the return required by subsection 1 or subsection 6, as the case may be, within twenty-three days of the close of each such extended period, together with payment of the tax actually collectable and payable by the vendor during such period.
- (9) Where the Comptroller has authorized a vendor to file returns for extended periods under subsection 7 and the vendor fails to file a return within the time prescribed by subsection 8, the Comptroller may revoke the authorization granted, in which case the vendor will thereafter be required to file returns in accordance with subsection 1 or 6, as the case may be.
- (10) Every vendor shall make a separate return in respect of each place of business operated by him, but, if each place of business makes a return of sales to a central office of the vendor where all accounting is centralized, a consolidated return for all places of business operated by the same vendor may be granted on application to the Comptroller.

- (11) Where the Comptroller approves the filing of a consolidated return by a vendor, the consolidated return shall in each case be accompanied by a schedule showing the address of each place of business from which sales are made, and such schedule shall give totals of the gross sales made, the tax collectable on taxable sales, the taxable purchases and the tax payable on taxable purchases for each such place of business, but, in this section, a place of business does not include a factory or other property of a vendor from which no sales are made.
- (12) Subject to subsection 16, where a vendor has made sales of tangible personal property all of which is exempt from tax or has made no sales during the period for which he is reporting, he shall file a return and so state.
- (13) Where a vendor has made sales of tangible personal property on a basis whereby the purchase price is stipulated to be paid on terms or by instalments or otherwise and for that reason does not collect any part of the tax or the whole of it at the time of sale, he shall report the total amount of such sale and shall remit the total amount of the tax collectable thereon in the return required by subsection 1, 6, 8 or 16, as the case may be.
- (14) In each return required to be filed under this section, the vendor shall report the fair value of all items of tangible personal property that he purchases or takes out of stock for his own consumption or use or that he supplies to his employees where such items have not been included as gross sales or taxable sales in his accounts or in the returns required by this section.
- (15) Notwithstanding subsection 12, where a vendor operates his business on a seasonal basis so that he makes no sales of tangible personal property during a particular period of any year, he may upon application in writing to the Comptroller be authorized not to file returns for the months during which he does not operate his business.
- (16) Notwithstanding subsections 1, 6, 8 and 12 where a vendor operates his business on a seasonal basis and has been authorized by the Comptroller under subsection 15 not to file returns for the months during which he does not operate his business, the Comptroller may authorize any such vendor whose taxable sales during the season when he operates his business do not exceed \$100 in each of two consecutive months during that season to file his returns under the Act for periods longer than one month and not exceeding six months in duration.

Reg. 8—continued

- (17) In any case where the Comptroller has authorized a vendor to file returns for extended periods under subsection 16, he shall make the return required by subsection 1 or 6, as the case may be, within twenty-three days of the close of each such extended period, together with payment of the tax collectable and payable by the vendor during such period.

[¶ 6440]

Orders Taken by Non-Registered Vendors

9. (1) Every person who is not the holder of a vendor's permit but who solicits orders in Ontario for the sale of tangible personal property which is to be shipped to the purchaser in Ontario from a point outside Ontario, shall apply for and shall have received a special certificate in the prescribed form authorizing him to engage in such activity.
- (2) The application shall set forth the name under which the applicant carries on his business, the name and address of the person for whom he takes orders and such other information as is required by the Comptroller.
- (3) Each such certificate shall be issued by the Comptroller and the holder shall keep such certificate on his person at all time while soliciting orders in Ontario and shall produce it upon request to a purchaser or a duly authorized representative of the Comptroller.
- (4) On or before the twenty-third day of each month each person who holds a special certificate issued under this section shall file a return with the Comptroller concerning the orders he obtained during the calendar month immediately preceding.
- (5) The return shall contain,
- (a) the name and address of each person from whom an order is taken;
 - (b) a description of the tangible personal property to be sold pursuant to the order and the price to be paid therefor;
 - (c) the date upon which the order is taken;
 - (d) the date, as nearly as can be determined, on which the tangible personal property is to be delivered to the purchaser.

[¶ 6445]

RETURNS UNDER SECTION 2(7) OF THE ACT

10. Every person other than a registered consumer or a vendor holding a vendor's permit who is required to report the purchase of tangible personal property acquired by him outside

Ontario and which he brings into or has delivered to him in Ontario shall make a return to the Comptroller in such form as may be satisfactory to the Comptroller and he shall pay the amount of tax that is payable with the filing of such return on or before the twenty-third day of the month following the month during which he receives delivery of the taxable tangible personal property covered by the return.

[¶ 6450]

REMITTANCE OF TAX

11. Every person required to file returns by section 8 or 10 shall remit with the filing of the return the amount that is equal to the difference between the amount of the tax collectable and payable as shown by the return and the amount of any remuneration allowed by the Treasurer under section 9 of the Act.

[¶ 6455]

COLLECTION OF TAX BY VENDOR

12. (1) Every vendor shall state and charge the tax to be collected on each taxable sale separately from the sale price and shall show such tax separately from the sale price on any record, receipt, bill, invoice or other document, kept or issued by the vendor.
- (2) A vendor may not advertise or post or otherwise quote a price "tax included" without specifying separately the amount of the tax.
- (3) A vendor is not required to indicate in his advertisements or in a quotation of price with respect to the sale of tangible personal property that the tax will be added to the price.
- (4) If a vendor quotes a price for an article of tangible personal property without reference to the tax, the price thus quoted is that to which the tax shall be added and collected.

[¶ 6460]

VENDOR'S RECORDS

13. (1) Every vendor shall keep books of account, records and documents sufficient to furnish the Comptroller with particulars of,
 - (a) all inventories of tangible personal property taken;
 - (b) purchases of tangible personal property;
 - (c) sales of tangible personal property;

Reg. 13—continued

- (d) tangible personal property purchased or taken from stock by the vendor for his personal consumption or use or that of his business or supplied to his employees where any such property has not been included as retail sales;
 - (e) discounts and refunds;
 - (f) the amount of tax collected;
 - (g) disposal of tax including the remuneration taken.
- (2) All entries concerning the tax in such books of account, records and documents shall be separate and distinguishable from all other entries made therein.

[¶ 6465]

DESTRUCTION OF RECORDS

14. Every vendor shall preserve all books of account, records and documents required under the Act or this Regulation until such time as the Comptroller authorizes their destruction.

[¶ 6470]

TAX ON RENTALS AND HIRE-PURCHASE CONTRACTS

15. (1) Where a transaction involving a transfer of possession, a lease or a rental of tangible personal property occurs pursuant to a hire-purchase contract, a conditional sale contract or a sale that is designated as a lease or rental for the purpose of retaining title in the vendor as security for payment of the purchase price, the transaction shall be deemed to be a sale on credit and the tax involved in such transaction shall be payable on the total of the purchase price at the time the transaction is arranged.
- (2) Where tangible personal property is rented or leased and there is no commitment under the agreement on the part of the lessor to sell the tangible personal property to the lessee, tax applies to the following percentages of the rental price:
- (a) where the rental to one lessee is for a period of six days or less, 100 per cent;
 - (b) where the rental to one lessee is for a period of more than six days and not more than one month, 90 per cent; and
 - (c) where the rental to one lessee is for a period of more than one month, 80 per cent.
- (3) Where tangible personal property is rented or leased under an agreement that grants the lessee an option to purchase the property, tax shall be paid,

- (a) on the amount of rent paid, calculated in accordance with subsection 2, until the time the option is exercised; and
- (b) where the option is exercised, on the amount to be paid in that event.

[¶ 6475]

CONTAINERS

16. (1) In this section,

- (a) “returnable containers” means containers of a kind customarily returned by the purchaser of the contents thereof for re-use, such as milk bottles, steel drums, beer and soft drink bottles, wine barrels, chemical carboys and gas cylinders;
 - (b) “non-returnable containers” means containers not intended to be returned for re-use, such as wrapping and packing materials, paper bags, twine, medicine bottles and bottles that are intended to contain distilled spirits, and includes bottle tops and crowns when used to close.
- (2) Sales of returnable containers to manufacturers, compounders, bottlers and others that are for use in packaging their product and that are intended for re-use are subject to the tax imposed by the Act and such tax applies at the time of the sale to such persons.
 - (3) A returnable container is not subject to tax when it is transferred to the customer in connection with a retail sale of its contents, notwithstanding the fact that the retailer requires a deposit against the return of the container or allows a credit upon its return.
 - (4) Sales of non-returnable containers to manufacturers, compounders, bottlers and others that are for use in packaging their product for resale are not subject to tax under the Act.
 - (5) Sales of wrapping paper, clothes hangers, twine, tape and similar articles to purchasers who use them to package merchandise for sale at retail are usually sales made for resale and are not subject to tax, but sales of such articles to purchasers who use them in the conduct of an activity other than the sale of tangible personal property at retail, for example, laundries and dry cleaning establishments, are subject to tax.
 - (6) Sales of non-returnable paper napkins, straws and like articles to restaurants, lunch counters or other eating places where they are used in connection with the sale and serving of food are sales made for resale and are not subject to tax.

Reg. 15—continued

- (7) Sales of labels, name plates, price tags and shipping tags are not subject to tax if,
- (a) they are affixed to a non-returnable container or to the property sold; or
 - (b) they are affixed to returnable containers on which it is necessary to affix a new label each time it is refilled; or
 - (c) they are “applied coloured labels” that are painted or baked on glass bottles that are returnable containers, provided that the charge made for such bottles and the charge made for such “applied coloured labels” are shown separately on the vendor’s invoice.
- (8) Advertising material purchased by the vendor and used in connection with the sale by him of tangible personal property or enclosed with tangible personal property is subject to tax.

[¶ 6480]

FINANCE AND CARRYING CHARGES

17. (1) The fair value of tangible personal property sold does not include finance charges, carrying charges or interest charges on conditional sale contracts or other contracts providing for deferred payments of the sale price if the amount of such finance charges, carrying charges or interest is in addition to the usual or established cash selling price and if such amount,
- (a) is segregated on the invoice or bill of sale, or
 - (b) is billed separately to the customer.
- (2) Unless these conditions are met, such charges shall be deemed to be part of the fair value for the purpose of computing tax.

[¶ 6485]

SETTLERS’ EFFECTS

18. (1) Where a person who was ordinarily resident outside of Ontario takes up residence in the Province and brings with him for his own consumption or use household goods and equipment that he owned before taking up residence in Ontario, such household goods and equipment shall be deemed to be settlers’ effects and are exempt from tax if such effects are brought into Ontario within six months of his taking up residence in the Province.
- (2) For the purpose of this section, a person shall be deemed to have been ordinarily resident outside Ontario if he has sojourned outside Ontario for a period exceeding six consecutive months.

[¶ 6490]

TRANSFERS OF MERCHANDISE BETWEEN RELATED PERSONS

19. (1) In this section,

- (a) “parent corporation” means a corporation that owns beneficially at least 95 per cent of the share capital, except directors’ qualifying shares, of another corporation and also means any other corporation which, in the opinion of the Comptroller and not inconsistent with the intent of this section, is for all intents and purposes, a parent corporation to a wholly-owned subsidiary corporation;
 - (b) “wholly-owned subsidiary corporation” means a corporation at least 95 per cent of the share capital of which, except directors’ qualifying shares, is beneficially owned by the corporation to which it is subsidiary, and also means any other corporation which, in the opinion of the Comptroller and not inconsistent with the intent of this section, is for all intents and purposes, a wholly-owned subsidiary to a parent corporation.
- (2) Where tangible personal property is sold by a parent corporation to its wholly-owned subsidiary, or by a wholly-owned subsidiary to its parent corporation, or by one wholly-owned subsidiary of a parent corporation to another wholly-owned subsidiary of the same parent corporation, and if the tangible personal property sold was located within Ontario and belonged to one of these corporations on the 31st day of August, 1961, or if tax under the Act has been paid on the purchase of the tangible personal property sold by one of such corporations, no tax is payable by the purchaser in respect of such sale.
- (3) Where tangible personal property is sold to a corporation at the time of its incorporation by a person or by a partnership or by a corporation which wholly owns and controls the purchasing corporation, and if the tangible personal property sold was located in Ontario and belonged on the 31st day of August, 1961 to the person, partnership or corporation making the sale, or if the tax under this Act has been paid on such tangible personal property by the person, partnership or corporation making the sale, no tax is payable by the purchasing corporation in respect of such sale.
- (4) Where tangible personal property is sold to a corporation at the time of its incorporation by a person or by a partnership or by a corporation which does not wholly own and control the purchasing corporation, and

Reg. 19—continued

- (a) if the tangible personal property sold was located in Ontario and belonged on the 31st day of August, 1961, to the person, partnership or corporation making the sale; or
- (b) if tax under the Act has been paid on such tangible personal property by the person, partnership or corporation making the sale,

and if as payment for such tangible personal property, the person, partnership or corporation selling the tangible personal property receives and retains shares in the purchasing corporation at least equal in actual value to the actual value of the tangible personal property sold, no tax is payable by the purchasing corporation in respect of this sale, but if the actual value of the tangible personal property sold to the purchasing corporation exceeds the actual value of the shares of the corporation which are transferred to the person, partnership or corporation selling the tangible personal property, the difference between the actual value of the tangible personal property sold and the actual value of the shares transferred is subject to tax under the Act.

[¶ 6495]

REBATE OF TAX

- 20. (1) Where a construction contractor has entered into a fixed price or lump-sum construction contract before the 30th day of March, 1961 or where such a construction contract was tendered by such person before the 30th day of March, 1961 and was accepted without adjustment thereafter, the Treasurer may authorize a rebate of the tax paid by the construction contractor on the tangible personal property that enters directly into and becomes part of the construction or alteration of any building or other structure on land covered by such construction contract, as well as the preparation for the work of construction of, and the preparation for or the laying of the foundation of any such building or other structure.
- (2) The Treasurer may pay to the governing body of a religious, charitable or benevolent organization or of a hospital, nurses' home, school or university in respect of tangible personal property that enters into and becomes part of the construction on land of a building or structure of such organization, hospital, nurses' home, school or university an amount calculated as provided in subsection 4.
- (3) The Treasurer may pay to a municipality or local board thereof in respect of tangible personal property that enters into and becomes part of the construction on land of a build-

ing or structure of such municipality or local board thereof an amount calculated as provided in subsection 4.

- (4) The amount of any payment to be made under subsections 2 and 3 shall be determined by the application of the following percentages to the total contract price payable by the governing body or the municipality or the local board thereof, as the case may be, for the construction of the building or structure referred to including the price at which the contractor undertook to build the structure, the architect's fees and all other labour costs connected with the building of such building or structure:

Municipal roads and highways . .	1.125 per cent
All other structures	1.25 per cent

- (5) Where a construction contract requires progress payments on account of the contract price to be made by a governing body, a municipality or a local board thereof, as the case may be, the amount to be paid under subsections 2 and 3 may be made by instalments equal to the appropriate percentages referred to in subsection 4 of the progress payments required to be made by such governing body, municipality or local board thereof, as the case may be.
- (6) Where a rebate of tax under subsection 1 is made to a contractor, the amount of such rebate shall be deducted from any amount that a governing body referred to in subsection 2, or a municipality or a local board thereof referred to in subsection 3, may otherwise be entitled to.
- (7) Where a construction contract was entered into before the 1st day of September, 1961 and progress payments under the contract were required to be made by the governing body or the municipality or the local board thereof, as the case may be, prior to that date, subsections 2 and 3 apply only to progress payments required to be made in connection with work that commenced on the contract on and after the 1st day of September, 1961.
- (8) The application for a rebate or payment under this section shall be made in writing setting forth such information as the Treasurer from time to time deems necessary and such application may be sworn to or certified by the applicant as required by the Treasurer.
- (9) Where a motor vehicle is sold within Ontario to a non-resident of the province and within thirty days of the date of such sale the vehicle is taken out of Ontario to be used solely

Reg. 20—continued

outside Ontario, the tax collected at the time of the sale may be refunded by the Treasurer upon receipt of satisfactory evidence.

[¶ 6500]

NON-RESIDENT CONTRACTOR

21. (1) Where a non-resident contractor enters into a contract with a person, pursuant to which or in the carrying out of which, tangible personal property will be consumed or used in Ontario, the non-resident contractor shall deposit with the Treasurer a sum equivalent to 3 per cent of the total amount to be paid under the contract, or shall furnish the Treasurer with a guarantee bond satisfactory to him in a sum equivalent to 3 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract.
- (2) Any person who enters into a contract referred to in subsection 1 with a non-resident contractor shall thereupon notify the Comptroller of Revenue of the particulars of the contractor and the amount to be paid under the contract.

ONTARIO

RETAIL SALES TAX RULINGS

RULING 1—REMUNERATION TO VENDORS

[¶ 6505]

(1) Subject to subruling 2, the remuneration payable to each vendor for his services in collecting and remitting the tax under this Act shall be the amounts shown, or shall be calculated at the following percentages of the tax he collects from others, as the case may be:

- (a) where the amount resulting from dividing the gross sales made by the vendor during a month by the number of sales transactions completed during that month is \$300 or less, and
1. where the amount of taxable sales is not more than $\frac{1}{3}$ of total gross sales during that month 4%
 2. where the gross amount of taxable sales is more than $\frac{1}{3}$ and not more than $\frac{1}{2}$ of total gross sales during that month, and
 - (i) the amount of tax collected is not more than \$100 4%
 - (ii) the amount of tax collected is more than \$100 and not more than \$133.33 \$4
 - (iii) the amount of tax collected is more than \$133.33 3%
 3. where the amount of taxable sales is more than $\frac{1}{2}$ of the total gross sales during that month, and
 - (i) the amount of tax collected is not more than \$100 4%
 - (ii) the amount of tax collected is more than \$100 and not more than \$133.33 \$4
 - (iii) the amount of tax collected is more than \$133.33 and not more than \$500 3%
 - (iv) the amount of tax collected is more than \$500 and not more than \$750 \$15
 - (v) the amount of tax collected is more than \$750 2%
- (b) where the amount resulting from dividing the gross sales made by the vendor during a month by the number of sales transactions completed during the month exceeds \$300 but is not more than \$1,000 1%

Ruling 1—continued

- (c) where the amount resulting from dividing the gross sales made by the vendor during a month by the number of sales transactions completed during that month is more than \$1,000 $\frac{1}{2}$ of 1%

(2) Notwithstanding subruling 1, the remuneration payable in respect of any return that a vendor is required to make shall not be less than the lesser of the amount of tax collected during the period covered by the return or 50 cents.

(3) No remuneration shall be paid to a vendor with respect to the tax payable by him on tangible personal property which he purchases or takes out of his own stock for his own consumption or use whether such tax is paid to his supplier or is paid directly to the Treasurer.

(4) The remuneration provided by this ruling may be disallowed where the return reporting the tax collected is not filed within the time prescribed by the Regulations.

(5) The remuneration payable to vendors under this ruling shall be applicable to tax collected on sales made on and after February 1, 1963.

RULING 2—SERVICE ENTERPRISES

[¶ 6510]

(1) **Service Enterprises in General.**—Persons engaged in the business of rendering service are consumers and not vendors of the tangible personal property that they use incidentally in rendering the service. The tax imposed under this Act applies accordingly to the purchase of tangible personal property by them. Examples of service enterprises include, but are not limited to, the following: banks, advertising agencies, commercial artists, persons rendering service by contract for all types of office machinery and other types of equipment such as oil burners, etc., launderers, cleaners, barbers, beauty shop operators, tire repairers, taxidermists, shoe repair men, bootblacks and similar enterprises.

Persons rendering professional services are consumers and not vendors of the tangible personal property that they use incidentally in rendering their services. Examples of such persons are physicians, dentists, lawyers, architects, engineers and accountants.

If any of the persons referred to under this heading are regularly engaged in selling tangible personal property to consumers, in addition to using tangible personal property incidentally in connection with rendering services, they are vendors with respect to such sales and they must be the holders of vendors' permits, file returns and collect and remit taxes based upon the amount of such sales.

[¶ 6515]

(2) **Advertising Agencies.**—Advertising agencies are not vendors of tangible personal property when they render the service of preparing and placing advertisements in advertising media. These media include, but are not limited to,

- (a) newspapers, magazines and other publications;
- (b) radio and television programs;
- (c) billboards and other forms of outdoor advertising; and
- (d) cards in cars, buses and other facilities used in public transportation.

An advertising agency, acting as it does in almost every set of circumstances as a service enterprise, will not be granted a vendor's permit under *The Retail Sales Tax Act* unless it demonstrates that it actually sells tangible personal property and not services on a regular basis.

When an advertiser or an advertising agency acting as agent for its client purchases tangible personal property such as pamphlets, booklets and other printed matter, final lay-outs, art work, photographs, drawings, printing plates, wax engravings, half-tones, electros, stereos and matrices, the advertiser or the agency, as the case may be, is the consumer thereof and must pay tax on the purchase price paid to the supplier for such property.

Paragraph 58 of section 5 of *The Retail Sales Tax Act* provides an exemption from tax of "machinery and apparatus and parts thereof, as defined by the Treasurer, purchased by advertisers or their agents that, in the opinion of the Treasurer, are used to produce advertisements exclusively in newspapers and magazines". Pursuant to that exemption, an advertiser will be able to buy from his supplier and the supplier will be relieved of the requirement that he charge tax to such advertiser or advertising agency, as the case may be, with respect to the purchase of printing plates, wax engravings, half-tones, electros, matrices, lay-outs, art work, photographs and drawings when the advertiser or the advertising agency, as the case may be, provides the supplier with an end-use certificate in the following form:

I/we certify that I/we are the holder(s) of Excise Sales Tax Licence Number and that the material covered by this order will be used directly in the publication of advertisements in newspapers, national magazines or periodicals, and that none of it will be used in the manufacture of printed booklets, displays, posters, streetcar cards, streamers and types of advertising media that are not newspapers, national magazines or periodicals.

Name

Ruling 2—continued

In certain cases an advertising agency may act as a principal and actually sell comprehensives, roughs, visualizations, photographs, final art work, drawings and other materials to customers and do this on a regular basis. When this happens the advertising agency becomes a vendor under the Act and should possess a vendor's permit, collect tax from its customers, file returns and remit the tax so collected in accordance with section 8 of the Regulation made under *The Retail Sales Tax Act*. Under these circumstances, the materials purchased by the advertising agency for the purpose of resale or of being incorporated into other material for sale to its customers may be purchased free of tax on the issuance of suitable purchase exemption certificates. But when an advertising agency provides roughs, comprehensives or visualizations prepared solely for the purpose of displaying an advertising idea to its clients, this activity does not represent the sale of tangible personal property but the rendering of a service and the advertising agency should not charge any tax to his client in respect of such activity.

When an artist, painter, sculptor or other craftsman is in the employ of an advertiser or advertising agency and receives a salary for his work, he is not deemed to be a vendor under the Act and he has no tax to collect from his employer or others unless he makes sales for his employer as an agent thereof, in which case he must collect tax for the account of his principal.

[¶ 6520]

(3) **Barber and beauty shops.**—Barbers and beauty shop operators render service. They are purchasers for use or consumption of the tangible personal property used or consumed incidental to the rendering of such service and the use or consumption of such goods by them is taxable.

Barbers and beauty shop operators are required to collect the tax on retail sales of cosmetics, hair tonics, lotions and like articles when not used in connection with their services, except as provided in the next paragraph.

When the total of such sales in each of two or more months in a calendar year is never more than \$100, the barber or beauty shop operator is deemed not to be a vendor and is not required to hold a vendor's permit but, in such a case, he must pay the tax on the purchase price of such articles at the time of purchase on the basis that he is the consumer or user thereof.

[¶ 6525]

(4) **Dentists.**—Dentists render professional services and are therefore not required to collect tax from the patient paying for such services. Dentists are deemed to be consumers of the materials, sup-

plies, equipment and laboratory products that they buy. But they may buy free of tax drugs and medicines and X-ray films, local anaesthetics, cotton used in preparing the patient's teeth for filling and other supplies likewise used and all materials actually incorporated into fillings, dentures and other dental appliances. All other materials, supplies, equipment and laboratory products are subject to tax and the dentist must pay tax thereon to his supplier. Materials that are deemed to be taxable in the hands of dentists include among others: dental chairs, motors, instruments, X-ray machines, office equipment, stationery and all materials and supplies of whatever nature except those that enter directly into dentures and dental appliances or are consumed in performing dental operations.

[¶ 6530]

(5) **Dental Laboratories.**—Dental laboratories usually perform services for dentists in making dentures and dental appliances which are made to the order and particular specifications of each patient of a dentist. Thus they are deemed to be consumers of the materials, supplies, equipment and laboratory products that they buy, unless any of such materials are materials that enter into and form part of “dentures” or “dental appliances” as defined in paragraph 19 of section 1 of the Regulation made under *The Retail Sales Tax Act*. On all other materials, supplies, equipment and laboratory products, dental laboratories must pay tax to their suppliers.

Where a dental laboratory acts also as a dental supply house, the portion of the business that is operating as a dental supply house must hold a vendor's permit and collect tax on those items of tangible personal property they sell to dentists and others that are in the category of instruments, X-ray machines, dental chairs, motors and other equipment, and such dental supplies as are not materials necessary to be used by a dentist for the purpose of being processed, fabricated into, attached to or incorporated into a denture or dental appliance.

[¶ 6535]

(6) **Dry cleaners and repairers.**—Dry cleaners and repairers are consumers and may not be registered as vendors and must pay tax to their suppliers on all materials and machinery used in dry cleaning and performing repair services. The materials that they use in this capacity include all packaging material and non-returnable containers. They cannot give to their suppliers of packaging material and non-returnable containers a purchase exemption certificate certifying that the containers and packaging material are being used to package tangible personal property for sale because they are selling nothing but repair services in the form of dry cleaning and such services.

Ruling 2—continued

[¶ 6540]

(7) **Educational, hospital and charitable institutions.**—These institutions are all consumers of tangible personal property and may not be registered as vendors unless they are operating retail stores or other outlets and regularly selling tangible personal property. If any institution in these categories is regularly selling tangible personal property, the institution must hold a vendor's permit, file returns and collect and remit taxes from the ultimate consumer at the time of sale. When they are registered as a vendor in this way, they will be able to buy free of tax the materials that they can certify they are buying for resale on the issuance of purchase exemption certificates. Otherwise they must pay tax to their suppliers on all materials that they buy which are not otherwise declared to be exempt.

[¶ 6545]

(8) **Oculists, optometrists and opticians.**—An oculist is a physician who specializes in diseases of the eyes and whose services include, in addition to the examination of the eyes and the prescription of optical appliances for use by his patients, the treatment of diseases pertaining to sight. It is rare that an oculist ever sells or manufactures or in other ways provides his patients with optical appliances. He prescribes optical appliances in the same way as a physician prescribes drugs to be used by his patients. The prescription made by an oculist for an optical appliance is taken by the patient to an optician to be filled in the same way as a patient takes a prescription for a drug to a druggist.

An optometrist does not treat diseases pertaining to sight as does an oculist, and his profession limits his activity to the prescription of optical appliances for use by his patients. An optometrist who is not an oculist may be deemed to be in the profession of optometry as long as he does not act as an optician in the filling of prescriptions made by an oculist or optometrist. The distinction between an optometrist and an optician is generally that the latter is not acting in a professional capacity because he is in the business of selling various types of optical material such as binoculars, cameras, magnifiers and sun goggles.

As long as an oculist or an optometrist operates exclusively in a professional capacity, he sells nothing but services and should not be registered as a vendor. Thus he is a consumer of everything he buys including optical appliances manufactured by opticians. But inasmuch as optical appliances as defined in paragraph 39 of section 1 of the Regulation made under *The Retail Sales Tax Act* are exempt from taxation, no tax may be charged on such optical appliances by opticians to an oculist or optometrist acting purely in a professional capacity. All other tangible personal property purchased by oculists and optome-

trists that constitutes equipment and supplies used in the pursuit of their profession is taxable and the suppliers must collect tax thereon from such oculists or optometrists.

Where an optometrist acts also as an optician, he regularly sells miscellaneous items such as binoculars, cameras, magnifiers, barometers and sun goggles, etc., as well as optical appliances as defined in paragraph 39 of section 1 of the Regulation. Such an optometrist or optician must hold a vendor's permit, file returns and collect and remit taxes. An optician, however, will not charge tax to his customer on the sale of optical appliances as defined in paragraph 39 of section 1 of the Regulation, and he may buy from his supplier all materials that he intends to sell to his customers free of tax on purchase exemption certificate of resale. Optometrists and opticians who hold vendors' permits must pay tax in respect of all purchases of tangible personal property that constitute equipment and supplies purchased for use in the conduct of the business and which is not for resale.

[¶ 6550]

(9) **Physicians and surgeons.**—Physicians and surgeons render professional services and are therefore not required to collect tax from the patients paying for such services. Physicians and surgeons are deemed to be consumers of the materials, supplies, equipment and laboratory products they buy. But they may buy free of tax drugs and medicines, X-ray film, local and general anaesthetic material and supplies consumed directly in the performance of operations and treatment of their patients. All other materials, supplies, equipment and laboratory products are subject to tax and the physician and surgeon must pay tax thereon to his supplier. Materials that are deemed to be taxable in the hands of a physician or surgeon include, among others, X-ray machines, all surgical and other instruments, all office equipment and stationery and all materials and supplies of whatever nature except those that are consumed directly in the performance of a surgical operation or in the treatment of a patient, such as surgical dressings and materials that are consumed to the extent that they may not be used a second time. A physician or surgeon who dispenses drugs and medicines to his patients is exempt from collecting tax on such materials but he should record in his history sheets for such patients the amount and kinds of drugs and medicines he has so dispensed for each patient.

[¶ 6555]

(10) **Veterinarians.**—A veterinarian or a veterinary surgeon is deemed to render professional services and is exempt from obtaining a vendor's permit unless, outside of rendering this type of service, he regularly sells to the public merchandise such as patent medicaments, bandages, sterilized gauze, absorbent cotton, wadding and surgical

Ruling 2—continued

material. In this event, a veterinarian or veterinary surgeon must obtain a vendor's permit and collect tax on the fair value of such sales. A veterinarian or veterinary surgeon who dispenses drugs and medicines to the owners of animals is exempt from collecting the tax on such materials.

[¶ 6560]

(11) **Architects, engineers, accountants and lawyers, etc.**—Persons such as architects, engineers, accountants and lawyers who exercise a profession and provide only services and thus are not vendors under the Act must pay tax to their suppliers on all purchases of tangible personal property that they purchase for use in the pursuit of their profession.

[¶ 6565]

(12) **Towel and linen services.**—Persons furnishing periodic cleaning or laundering of coats, caps, aprons, diapers, uniforms, dresses, towels, linens and articles of a similar nature under an agreement that provides for a continuous service to be rendered to barber shops, beauty shops, industrial plants and other establishments or to individuals, are consumers of the supplies and other property used in performing their services and the tax applies at the time such supplies are purchased. Tax does not apply to the rental price or other charge made for the use of such articles. This means that the persons furnishing such cleaning are deemed to be the consumers of such coats, caps, aprons, diapers, uniforms, dresses, towels, linens and articles of a similar nature and when they buy them, they must pay tax to their suppliers. The non-returnable packaging in which such persons deliver such materials to barber shops, etc., is taxable in the hands of the persons furnishing the periodic cleaning or laundering.

[¶ 6570]

(13) **Morticians, undertakers and funeral directors.**—Morticians, undertakers and funeral directors are engaged in rendering personal services which are not taxable. They are deemed to be consumers of the various items of tangible personal property that they use or consume in the rendering of this service and the tax applies at the time of the purchase by the mortician, undertaker or funeral director calculated on the price they pay for such tangible personal property.

[¶ 6575]

(14) **Cemeteries, trustees of burying grounds and similar organizations.**—Cemeteries, trustees of burying grounds and similar organizations carry out and perform services in their operation as follows:

(a) interment services;

- (b) services relating to memorials;
 - (c) services relating to the decoration of graves.
1. The sale of a burial plot by a cemetery or the trustees of a burying ground or similar organization is a sale of real property and is not taxable. Concrete markers on burial plots are purchased by the cemetery, the trustees of the burying ground or a similar organization or by other persons and placed on the plot for identification purposes. The last person who buys this marker to place in position on this plot is a consumer and is required to pay the tax at the time of purchase.
 2. Some plots that are sold contain poured concrete tombs for the burial of cremated remains. These tombs are tangible personal property and not real property until they are installed in the plot. The last person who buys a concrete tomb for installation in a plot is purchasing tangible personal property and must pay tax on the fair value thereof to his supplier.
 3. The sale of niches in buildings intended to be used for the deposit of cremated remains is a sale of real property and is not taxable. All the materials that go into the building, including the building of the niches, are building materials. Those building materials that are not exempt under the Act are taxable in the hands of the person who builds the building. If a construction contractor is engaged to build the building, the construction contractor is the consumer of the materials he uses to build the building and must pay tax on all such taxable materials.
 4. Urns are provided for use in connection with cremation. The purchase of an urn by the person supplying the cremation service is a purchase of tangible personal property for use in providing this service and tax is payable by such person to his supplier on the fair value thereof.
 5. When a person providing a funeral service or interment of remains purchases a concrete crypt for the purpose of placing it in the ground to prevent the later collapse of the grave, such person is a purchaser of tangible personal property for use and is taxable on the fair value thereof at the time of purchase.
 6. Bronze markers are placed on graves and tombs as memorials. The person who purchases bronze markers to be placed on graves is purchasing them for use and must pay tax on the price paid to the suppliers of the bronze markers including the charge for the inscription thereon.

Ruling 2—continued

7. The trustees of burying grounds and similar organizations pour concrete foundations for monuments and markers or they engage a contractor to pour such foundations. The taxable materials used to provide the concrete are taxable in the hands of the person who constructs the concrete foundation on the plot. Once the foundations are part of real property no further tax applies.
8. Trustees of burying grounds and similar organizations render the service of providing floral decorations for graves including necessary sodding, planting of flowers and shrubs and caring for the flower beds during the growing season. Tax is payable on the seeds that are used to grow the flowers, on the plants and shrubs that are purchased to be planted, on the sod that is purchased to be placed on the graves and on any other items of tangible personal property that go into the floral decoration and the person who purchases these items in order to provide this service is the consumer and thus is the taxpayer. The actual service of placing the sod on the ground, of planting the flowers and shrubs and of caring for the flower beds during the growing season is not taxable because it does not represent a sale of tangible personal property.
9. The trustees of burying grounds and similar organizations supply evergreen branches to cover the graves in winter and memorial wreaths to be placed on graves. The person who purchases the evergreen branches to cover the graves or the memorial wreaths to be placed on the graves is a consumer and is taxable on the price charged for these items when he purchases them. Memorial wreaths to be placed on graves under a contract of perpetual care is a service. Trustees of burying grounds and similar organizations, when they perform this type of service, become the consumers of the memorial wreaths and must pay tax on the price they pay for them at the time of purchase. If the memorial wreaths are sold to any other person for placing on the graves, or the trustees of the burying ground or other organization purchase them to be placed on graves not under perpetual care, then tax applies to the total charge made for the wreaths by the suppliers thereof.

[¶ 6580]

(15) **Hotels, rooming houses, apartment buildings, tourist homes, motels, etc.**—The operators of hotels, rooming houses, apartment buildings, tourist homes, motels, etc., shall be deemed to be consumers of the tangible personal property they acquire for use in the rooms or apartments of such buildings. Such tangible personal property includes

draperies, carpets, rugs, stoves, ranges, heaters, refrigerators, kitchen waste disposal equipment, window air-conditioners, dishwashers, cabinets, and all furniture. When the operator of such a building lets rooms or apartments therein, no tax shall be charged on the rent of such accommodation even though it includes the use by the renter of tangible personal property of the character indicated.

RULING 3—CONTRACTORS AND SUBCONTRACTORS

[¶ 6585]

(1) **Construction contractors: General Rules.**—Contractors, as defined by paragraph 18 of Regulation 1, are consumers of tangible personal property used by them in fulfilling construction contracts. They are also consumers of the equipment, supplies and other items of tangible personal property they acquire in the ordinary course of their business. They must pay tax to their suppliers at the time they buy such materials, supplies and other tangible personal property. This rule applies whether the precise form of the construction contract is fixed price, time and materials, cost-plus or any variation of these forms, or any other form.

A contractor engaged exclusively in the performance of construction contracts, who is not at any time a manufacturing contractor and who never makes sales of tangible personal property at retail, shall not be issued a vendor's permit. A contractor in his capacity as a construction contractor is not selling tangible personal property but a completed piece of real property and, therefore, he is not required to report to the person for whom he is performing contract work the amount of tax he paid on materials, supplies and other tangible personal property used in performing the construction contract.

These rules apply to general contractors and to those persons generally known as subcontractors, such as electrical, plumbing, heating and other types of contractors, whether operating in a particular instance as a subcontractor or as a primary contractor.

[¶ 6590]

(2) **Manufacturing contractor.**—Paragraph 33 of Regulation 1 defines a manufacturing contractor to mean “a manufacturer who fabricates or manufactures tangible personal property, for his own consumption or use in the performance of construction contracts.”

Thus, a manufacturing contractor deals with tangible personal property which he fabricates in either of two ways:

1. in the performance of construction contracts, or
2. by selling the tangible personal property to others.

Ruling 3—continued

A manufacturer of sheet metal products may, for example, manufacture eaves-troughs, gutters or furnaces and sell them to others. Instead of selling them to others, he may use them directly in performing construction contracts.

Where a manufacturer becomes a construction contractor and uses materials that he has manufactured in the performance of the contract, he shall be regarded as the consumer of those materials he uses in performing the contract and shall pay tax directly to the Treasurer,

- (a) on the cost of the tangible personal property he has manufactured, including the materials that went into it, the labour, all factory overhead costs and the tax payable under the *Excise Tax Act* (Canada) pursuant to section 31 thereof; and
- (b) on the cost of all materials he buys from others for use in the performance of the contract.

[¶ 6595]

(3) **Contractor-Retailers.**—In certain instances, a manufacturer may act in three capacities :

- 1. as a manufacturer;
- 2. as a construction contractor;
- 3. as a retailer.

This is particularly true in electrical, plumbing, heating and similar fields. Certain vendors primarily in the business of operating retail stores will perform construction contracts or manufacturing contracts. Every retailer will be required to have a vendor's permit and collect tax in the usual fashion on all retail sales. But when a retailer is also a construction contractor or a manufacturer or both, the firm must keep separate accounts for the manufacturing portion of the business, the construction contract portion of the business and the retail portion of the business in order that tax may be applied to the fair value of all taxable tangible personal property transferred to construction contract work at the time or in the period when such transfer is made regardless of the time when payment is obtained for the contract. Fair value, in this instance, will be interpreted to be the amount represented by the total of the cost of the goods to the retailer, the cost of his fabrication of the goods, if any, including labour, factory overhead, and the tax payable under the *Excise Tax Act* (Canada) pursuant to section 31 thereof, but not including any installation costs.

[¶ 6600]

(4) **Installation contract.**—Where a manufacturer or other vendor undertakes a contract to install tangible personal property which, when installed, does not become part of real property but is still

tangible personal property, the vendor does not become a construction contractor and the contract is not a construction contract. A sale of this kind of tangible personal property is a retail sale. The entire price, including the charge for installation, is taxable unless the installation charge is quoted separately in the contract and on the invoice to the customer. In the latter case, the installation charge is not subject to tax.

Where a vendor accepts a construction contract and as part of the construction contract, there is included an undertaking to install tangible personal property that when installed is still tangible personal property and has not become part of real property, the portion of the contract that calls for the installation of tangible personal property that does not become part of real property shall be separated for tax purposes and deemed to be a separate installation contract. The overall contract, both construction and installation, must separate the charge for the tangible personal property that is to be installed and that will remain tangible personal property from that used in completing the construction contract and which will have become real property. The fair value of the tangible personal property that remains tangible personal property shall be the price at which it is billed to the customer and not the price at which it was purchased by the vendor and such price must include the installation charge unless such charge is separately quoted both in the contract and on the invoice to the customer.

[¶ 6605]

(5) **Ready-mix concrete operators.**—Ready-mix concrete operators are deemed to be construction contractors in respect of this activity and not manufacturers or vendors of tangible personal property. Not being vendors, they should not hold vendors' permits. When they buy trucks, mixing equipment and other tangible personal property with which to mix and pour concrete, they will be required to pay tax to their suppliers on all such equipment as well as on all tangible personal property entering into the concrete mixture that is not exempt under section 5 of the Act. In billing their customers, no tax under *The Retail Sales Tax Act* should appear on the invoice or bill provided.

When a ready-mix concrete operator supplies concrete mixture for the construction of a hospital, nurses' residence, school or university building or for the construction of capital works of a municipality, there is no way for the ready-mix concrete operator to sell the material exempt from tax. The ready-mix concrete operator is a consumer and has paid the tax on the taxable ingredients that went into the mixture.

Ruling 3—continued

The ready-mix operator must supply a statement to the organizations exempt under paragraphs 62 and 63 of section 5 of the Act, certifying the quantity and strength of the concrete mixture supplied for the project.

[¶ 6610]

(6) **Hot and cold asphalt mixers.**—Hot and cold asphalt mixers are deemed to be construction contractors in respect of these activities and not manufacturers or vendors of tangible personal property. Not being vendors, they should not hold vendors' permits. When they buy trucks, mixing equipment and other tangible personal property with which to prepare and deliver the hot and cold asphalt mixes, they will be required to pay tax to their suppliers on all such equipment as well as on all tangible personal property entering into the mix that is not exempt under section 5 of the Act. In billing their customers, no tax under *The Retail Sales Tax Act* should appear on the invoice or bill provided.

When a hot and cold asphalt mixer supplies asphalt mix for the construction of a hospital, nurses' residence, school or university building or for the construction of capital works of a municipality, there is no way for the asphalt mixer to sell the material exempt from tax. The asphalt mixer is a consumer and has paid the tax on the taxable ingredients that went into the mixture.

The asphalt mixer must supply a statement to the organizations exempt under paragraphs 62 and 63 of section 5 of the Act, certifying the quantity and strength of the asphalt mix supplied for the project.

[¶ 6615]

(7) **Speculative builders.**—When a construction contractor or other person regularly builds houses for sale and sells with these houses tangible personal property that does not form part of the real property that results from the building of the houses, such as draperies, carpets, rugs, stoves, ranges, heaters, refrigerators, kitchen waste-disposal equipment, window air-conditioners, dishwashers, cabinets, furniture and other items, none of which are built into and form part of the house or houses he has built, he must be registered as a vendor and collect tax from the purchasers of the houses that contain such items of tangible personal property on the fair value of such tangible personal property that such contain when they are sold. Being registered as a vendor, he may buy such items of tangible personal property that do not become part of real property and are not built into real property, free of tax on purchase exemption certificate of resale. But he must pay tax as a consumer to the supplier of all items of tangible personal property that he buys and builds into real property and this includes all the items such as shades, blinds, awnings, linoleum,

screens, storms, broadloom carpets, stoves, ranges, heaters, refrigerators, light fixtures, kitchen waste-disposal equipment, window air-conditioners, dishwashers, cabinets and any other material which, when installed, are no longer tangible personal property but have become part of real property.

[¶ 6617]

(8) **Contractors as registered consumers.**—A construction contractor who does not hold a vendor's permit, but who purchases tangible personal property to a value of \$100 in each of any two months of a calendar year from outside Ontario, for use in Ontario, must apply for and obtain a "registered consumer's certificate". This certificate will permit the contractor to file special returns and remit tax monthly on the purchases of tangible personal property he makes from outside Ontario for use in Ontario. A "registered consumer's certificate" shall not be deemed to be a vendor's permit and its possession will not enable the construction contractor to buy tangible personal property from vendors in Ontario free of tax because, not being registered as a vendor, he will be unable to issue valid purchase exemption certificates.

RULING 4—MANUFACTURERS, PRODUCERS, PROCESSORS AND WHOLESALE

[¶ 6620]

(1) **Manufacturers.**—Every person who manufactures tangible personal property for sale is deemed to be a vendor and each must hold a vendor's permit even if he makes no sales at retail. Manufacturers must collect tax from customers on all sales to them of taxable tangible personal property except when the customer supplies the manufacturer with a purchase exemption certificate as required under Regulation 3 indicating that the property is being purchased for resale or is exempt under paragraph 38, 39 or 40 of section 5 of the Act. If the transaction is a taxable transaction, the manufacturer must collect the tax on the full price asked of his customer even if the charges for labour, materials and federal sales tax are separated on the invoice and even if the manufacture or fabrication is executed according to information furnished by the customer and with materials selected by him. Likewise if the customer supplies his own materials and the manufacturer performs any operation thereon, the manufacturer must collect tax on the entire charge made for such fabrication. Such an activity being fabrication, production or processing, is a "sale" of tangible personal property under section 1 of the Act and does not represent a charge for rendering a service.

Ruling 4—continued

A manufacturer is not required to pay tax on the purchase of tangible personal property that he buys for resale or for incorporation into products that he manufactures for sale. Neither is he required to pay tax on the purchase of tangible personal property that is ruled to be machinery and apparatus as defined in Ruling 10 or processing materials as defined in Ruling 11. In these categories only those items of tangible personal property that are interpreted specifically to fall within the categories of machinery and apparatus and of processing materials are exempt from the tax. Tax must be paid on all other items of tangible personal property purchased including such items as furniture, office equipment and supplies, supplies for cleaning and maintenance, building materials, motor vehicles, etc.

When a manufacturer uses or consumes any tangible personal property that he has manufactured himself, he is required to pay tax on the total finished cost of the merchandise including labour, factory overhead and the tax payable under the *Excise Tax Act* (Canada) pursuant to section 31 thereof.

A manufacturer who purchases tangible personal property for the purpose of incorporating it into a construction project which, when complete, will be real property, is taxable on the purchase price of such tangible personal property.

[¶ 6625]

(2) **Wholesalers.**—Every person who engages in the business of wholesaling must hold a vendor's permit even if he makes no sales at retail. Every wholesaler must collect tax from customers on all sales of taxable tangible personal property except when the purchaser supplies the wholesaler with a purchase exemption certificate as required under Regulation 3 indicating that the tangible personal property is being purchased for resale or is exempt from tax under paragraph 38, 39 or 40 of section 5 of the Act.

Where a wholesaler in making sales of tangible personal property does not receive a valid purchase exemption certificate or other evidence that would authorize exemption from tax and does not collect tax on the tangible personal property so sold, he becomes liable for the tax he should have collected. A purchase exemption certificate may be in any form or any combination of any of the forms prescribed by Regulation 5. When a wholesaler makes sales of tangible personal property free of tax because his customer has provided him with a purchase exemption certificate, he is not responsible for collecting tax on such tangible personal property even if the purchase exemption certificate is erroneously issued by the customer. Where a wholesaler has issued a purchase exemption certificate to his supplier for the purchase free of tax of tangible personal property for resale or for use as provided by paragraph 38, 39 or 40 of section 5 of the Act and

subsequently uses or consumes such tangible personal property for a taxable purpose, the wholesaler must report and pay tax on such items. The wholesaler and not the supplier is liable for the tax in such cases. Where a vendor receives a valid purchase exemption certificate from his customer which the customer could legally execute, the supplier or vendor of the tangible personal property is relieved of the responsibility of collecting the tax.

A vendor may not issue a purchase exemption certificate in order to buy free of tax equipment, supplies and other items that are taxable in his hands. A wholesaler may, however, purchase articles of a type generally handled for resale free of tax even if the particular items are to be used by him for taxable purposes, as, for example, light bulbs purchased by a hardware store for use in the store. But the purchaser in such instances must account for the tax on these items on his own tax return for the period.

RULING 5—RETAILERS

[¶ 6630]

(1) **Artists, painters, sculptors, cabinet-makers.**—A museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies may buy a painting, a drawing, a pastel, an original sculpture or any other work of art free of tax on providing the vendor with a certificate that it is being purchased by the museum or art gallery for its collection and not for resale. Except for this exemption provided by paragraph 53 of section 5 of the Act, sales of sketches, paintings, engravings, sculptures, furniture or any other objects of art or articles of handicraft, whether executed according to specifications or otherwise, are subject to tax.

A commercial artist or other person or firm engaged in the creation or production of drawings, paintings, designs, photographs, or other artwork is a vendor of such tangible personal property when it is sold to advertising agencies for use by the agency in rendering their services. Such an artist, painter, sculptor or cabinet-maker, if he is in the regular business of selling such objects of art or articles of handicraft, must secure a vendor's permit and collect tax on the total price charged for the production of such tangible personal property unless the purchaser certifies that it is being purchased for resale.

When an artist, painter, sculptor or other craftsman is in the employ of another person and receives a salary for his work, he is not deemed to be a vendor under the Act and has no tax to collect unless he makes sales as an agent for his principal in which case tax must be collected for the account of the principal.

Ruling 5—continued

[¶ 6635]

(2) **Auctioneers.**—A person engaged in the business of making sales at auction is a vendor and must obtain and hold a vendor's permit and collect tax on the sales he makes of tangible personal property.

[¶ 6640]

(3) **Florists and Nurserymen.**—Sales of flowers, wreaths, bouquets, potted plants, shrubbery and other items of tangible personal property are subject to tax. Where a florist conducts transactions through a florists' telegraphic delivery association, the following rules apply in the computation of tax liability:

- (a) on all orders taken by an Ontario florist and telegraphed to a second florist in Ontario for delivery in Ontario, the florist taking the order will collect the tax on the price charged for the flowers excluding the charge for the telegraph service;
- (b) in cases where the Ontario florist receives an order pursuant to which he gives telegraphic instructions to a second florist located outside Ontario, for delivery of flowers to a point outside Ontario, no tax is collectable by the florist taking the order;
- (c) in cases where an Ontario florist receives telegraphic instructions from another florist located either within or outside Ontario for the delivery of flowers, the Ontario florist receiving such telegraphic instructions shall not be liable to collect tax from the person to whom such flowers are to be delivered. In this instance, if the order originated in Ontario, tax will be collectable by the Ontario florist who first received the order and gave the telegraphic instructions to the second florist.

Where a nurseryman or florist sells shrubbery, young trees or similar items, and as part of the transaction transplants them to the land of the purchaser for a lump sum or flat rate, the vendor so selling and installing must make a segregation of that portion of the charge that is for tangible personal property sold and that portion of the charge that is for installation. If the vendor fails to segregate the charge, the entire consideration including the charge for transplanting the shrubbery, young trees or similar items is subject to the tax. The following classes of tangible personal property usually sold by nurserymen and florists are exempt from tax;

- (a) seeds that will produce forage, cereal, fruit, root, vegetable and tobacco crops;
- (b) fruit trees;
- (c) plants that produce fruit or other food for human consumption;
- (d) tobacco plants;
- (e) shrubs that produce fruit or other food for human consumption.

Where a person is engaged in business as a landscape contractor and performs services other than the installation of trees, shrubs, etc., for example, soil banking, soil levelling, stone-work, drainage work, and soil conditioning, he will be regarded as a construction contractor in connection with work on contracts of this type. The landscape contractor will not be considered as a vendor of tangible personal property such as sod, trees, shrubs, and other plants on these contracts. Rather, he will be considered as the consumer of the items he uses on his landscape contracts, and will be required to pay tax on all such sod, trees, shrubs and other material on their fair wholesale value at the time he so uses them. This tax should be paid to the supplier if the trees, shrubs, etc., are purchased at the same time. If the trees, shrubs, etc., were grown by the contractor or if they were purchased at an earlier date, tax should be remitted on a fair value basis at the time of use.

If a landscape contractor operates a garden centre or retail outlet or if he sells trees, shrubs, or plants and simply plants them on the purchaser's property without performing additional landscaping services, he will be considered to be a contractor-retailer as dealt with in Ruling 3(3).

[¶ 6645]

(4) **Garage operators.**—A garage or other motor vehicle repair-shop is in part a vendor of tangible personal property and in part a service enterprise. The activities of towing, shop labour, battery charging, repairs to tires, chassis lubrication and similar services constitute the provision of services. The charge for such services is not taxable and the garage or other motor vehicle repair-shop is a consumer, not the vendor, of any tangible personal property, such as grease, used in rendering the services. The garage or other motor vehicle repair-shop must pay tax on the purchase price of such items when they are taken from stock held for resale and report such tax in the period in which they are taken from stock.

On motor vehicle repair work, the charge for labour is not taxable if separately invoiced. The garage is the vendor of all parts and supplies used in the repair work and must collect and remit tax upon them. If labour is not invoiced separately, the entire charge is taxable.

The garage is the vendor of car accessories, sun glasses and other items sold at retail.

The garage is the vendor of lubricating oil sold directly or placed in motor vehicles when oil is changed and of grease used in transmission and rear axle greasing.

See Ruling 9 with respect to the sale of motor vehicles.

Ruling 5—continued

[¶ 6650]

(5) Photographers, photo-finishers, photostat producers and the like.—Photo-finishing includes the development of negatives and the preparation of finished pictures. Charges for both of these activities are taxable whether a single charge is made for both or a separate charge is made for each. The charge for developing is taxable even if the customer has only development performed and requires no prints. Development of negatives is regarded as a form of printing, not of the rendering of a service and, therefore, it is taxable even if this is the only activity performed for the customer. This Rule applies to motion-picture film as well as to other types of film.

When film is purchased for a price that includes the development thereof, as is common with colour film, the entire charge is taxable. If the development is paid for separately, the charge for the development is taxable.

The tinting or colouring of photographs delivered to a photographer or photo-finisher by a customer constitutes a "sale" under clause *b* of paragraph 11 of section 1 of *The Retail Sales Tax Act* and the charge made for such "processing" is subject to tax. Sales of tangible personal property to photographers and photo-finishers to be used by them in performing such services, fabrication and processing, and in the development of negatives, are purchases that may be exempt from tax on submission to the vendor of valid purchase exemption certificates.

The sale of photostat copies by a photostat producer to purchasers for use constitutes a sale of tangible personal property at retail and is taxable. Likewise, sales of frames, camera and photographic films and other articles by photographers or photo-finishers to purchasers for use are sales at retail and are taxable. Sales of photographs by commercial or portrait photographers are taxable. However, the purchase of materials that become an ingredient or component part of the finished picture is not taxable since these materials are purchased for resale and the tax is to be collected from the ultimate user. Films, mounts, frames and paper become an ingredient or component part of the finished picture and such tangible personal property when sold to photographers for that purpose is not taxable. Tangible personal property that is used in the manufacture of such pictures, such as proof paper, cameras, trays, etc., do not become component parts of the finished picture and sales of such tangible personal property to photographers are taxable. Persons engaged in the business of photo-engraving and lithography and selling lithographs and photo-engravings to persons other than job printers for use in printing advertising matter or other printed matter are making sales at retail and must collect tax on the price charged for such items of tangible personal property.

[¶ 6655]

(6) **Printing and related industries.**—The charge for the finished job of printing a piece of paper, a pamphlet, a folder, a book, a magazine, a newspaper or any other item that requires printing to be done on it is taxable in the hands of the final purchaser who pays a consideration therefor unless such final printed article is one that is specifically exempt from tax by one of the paragraphs of section 5 of the Act. The printer and all the sub-trades that he uses in producing the finished article are exempt from taxation on all of their purchases that are covered by item 38, 39 or 40 of section 5 of the Act. All machinery and apparatus and parts thereof that are declared to be exempt in the hands of the printer or any of the sub-trades supplying the printer in the category of production machinery in Schedule III of the federal *Excise Tax Act* are exempt from tax under paragraph 38 of section 5 of *The Retail Sales Tax Act* when they are purchased by the printer or any of those sub-trades. All materials that are declared to be exempt in the hands of the printer or any of the sub-trades supplying the printer in the category of processing materials in Schedule III of the federal *Excise Tax Act* are exempt from the tax under paragraph 39 of section 5 of *The Retail Sales Tax Act* when they are purchased by the printer or any of those sub-trades. All materials purchased by a printer or any of the sub-trades for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into the final printed article for the purpose of sale are free of tax in the hands of the purchaser under paragraph 40 of section 5 of *The Retail Sales Tax Act*.

If a printer, having produced a taxable article, sells it to a purchaser who,

- (a) cannot certify that he is a registered vendor under *The Retail Sales Tax Act* and that he is buying it for resale, or
- (b) cannot supply the printer with an end-use certificate in accordance with subsection 2 of Ruling 2 certifying that he holds an Excise Sales Tax Licence and that the material being purchased will be used in the publication of advertisements exclusively in newspapers, national magazines or periodicals,

the printer must collect tax on the price charged such purchaser. But if the printer sells to a manufacturer or anyone else who is able to certify that he is buying the final printed article for the purpose of resale, the printer may sell such final printed article free of tax, the purchaser, in this event, being liable to collect the tax on the sale price he charges to his customers for the same article. Similarly, if the printer sells to an advertiser or an advertising agency who can provide the end-use certificate referred to in (b) above, the printer may sell such material that would otherwise be taxable free of tax to that purchaser.

Ruling 5—continued

Therefore, when a printer maintains that the nature of his business is “manufacture of printing plates” and “advertising production services” the only sales he makes of tangible personal property would appear to be “printing plates”. But, presumably, he sells photo-engravings, stereotypes, electrotypes, mats, wax engravings, plastic plates, rubber plates, offset plates, artwork, commercial photography, typesetting, photostats and quantity proofs.

All of these items are taxable unless when he sells them to his customer, the customer can certify that,

- (a) he is a registered vendor under *The Retail Sales Tax Act* and that he is purchasing the material for resale or for incorporation into tangible personal property for sale or for the purposes of consuming it in the production of other tangible personal property for sale or that it is to be used by the purchaser in his capacity as a manufacturer directly in the production of tangible personal property for sale and that such material is declared to be exempt under the category of production machinery in Schedule III of the federal *Excise Tax Act*, or
- (b) he is not a registered vendor under *The Retail Sales Tax Act* but he can certify that he holds an Excise Sales Tax Licence and that the material being purchased will be used in the publication of advertisements exclusively in newspapers, national magazines or periodicals.

Where a printer receives material from customers and makes a charge for doing certain things to that material such as morticing, mounting, patching or retouching, this operation represents “the production, fabrication, processing, printing or imprinting of tangible personal property” for a consideration for customers who furnish the materials used in that production, fabrication, printing or imprinting, and the charge therefor is taxable in the hands of the customer unless the customer can give one of the certificates referred to in the immediately preceding paragraph.

It will be observed from the above that a printer that performs some aspect of printing is selling tangible personal property in almost everything he does. But much of what he does is in the nature of sub-trade to the final printer or the final vendor of the printed material. Only the final purchaser or consumer of printed material is the person that can be taxed and such purchaser or consumer cannot be taxed by the final vendor if he is an advertiser or an advertising agency who can give a certificate as required by clause (b) above or if the printed material is a school text-book or a book that is printed and bound and this is published solely for educational, technical, cultural or literary purposes or is a newspaper, however purchased, or is a magazine or a periodical. Thus, if a printer is the final vendor to a large corporation of the corporation’s annual report, the printer must collect the tax

from the corporation on the final price charged for the finished article. But the printer has no tax to pay on any of the material that he buys from others to make or manufacture the annual report, whether he buys the material in a finished or partially finished state from other sub-trades; also, the sub-trades are not taxable on any of the materials that they buy from junior trades in order to produce partially finished parts of the annual report that the printer sells to the corporation.

On the other hand, if the printer produces a "sales catalogue" for a customer, the printer is not required to charge a tax to that customer because the sales catalogue is declared to be exempt under the Act. The fact that the sales catalogue is declared to be exempt under the Act does not mean that because it is exempt the printer should not, himself, be exempt from tax on the purchase of all the materials that go into the production of that sales catalogue in exactly the same way as he is exempt from tax on all the materials he acquires and uses to produce the annual report for a corporation.

[¶ 6660]

(7) **Signs, showcards and posters.**—Signs are to be classified under the following headings:

1. Neon displays.
2. Electrical outdoor advertising displays.
3. Bulletin board displays.
4. Poster panel displays.
5. Commercial signs and colourgraph posters.

[¶ 6665]

Neon displays.—When neon displays are erected on customer's property and sold outright by the manufacturer to the customer, tax applies to the outright selling price including the cost of installation, unless the installation charge itself is separated from the balance of the charge in which case the installation cost is not subject to tax.

Where a manufacturer has undertaken by contract to maintain in good order for a period a neon display that he has sold outright to a certain customer, no tax is payable by the customer in respect of the charge made for maintenance, but tax applies and is payable by the manufacturer on all materials used by him in performing the maintenance work and to the labour and overhead related to those materials necessary to be expended prior to installation on the site.

Where a neon display is not sold outright but rented to the customer on a rental contract for erection on the customer's property, tax applies to 80 per cent of the monthly rental charge. At the end of

Ruling 5—continued

the first contract for the rental of the sign and where a renewal contract is undertaken, tax applies to 80 per cent of the monthly charge made under the renewal contract regardless of whether the charge is stated to be rental or maintenance or any other type of charge. Under these circumstances, the manufacturer may buy free of tax on the issuance of purchase exemption certificates, all the materials necessary to maintain the sign in good order during the entire period during which the customer pays the manufacturer a rental charge or a maintenance charge, as the case may be. Throughout this period, 20 per cent of the entire charge made by the manufacturer to the customer shall be deemed to be the charge made for maintenance and no tax may be charged on the amount of such 20 per cent.

Where a neon display is erected on third person property and the manufacturer pays rent for the use of that property and this amount is included in the rental contract to the manufacturer's customer, tax will apply to 80 per cent of the monthly charge for the rental contract remaining after deducting from the total of that charge the amount of rent paid to the third person for the use of his property.

[¶ 6670]

Electrical outdoor advertising displays.—These displays at all times remain the property of the manufacturer. Charges for their use represent charges for advertising space on which no tax is payable because the use of space is not a sale of tangible personal property. Therefore, the manufacturer must pay tax as a consumer on all materials that go into making the display, including labour and factory overhead, but excluding actual installation costs.

[¶ 6675]

Bulletin board displays.—Bulletin boards are erected by manufacturers for the use of advertisers. When erected they are used by advertisers who pay for the display of advertisements in the space provided. As the space provided is not tangible personal property, no tax can be charged for the use of that space. Therefore, the manufacturer is the consumer of the materials that go to make the bulletin board display and must pay tax on all materials that go into it, including labour and factory overhead, but excluding installation costs.

Tax does not apply to the charge made by the manufacturer of the bulletin board display for painting or lettering on the board. The manufacturer of the bulletin board who does this painting receives the design from the advertiser and tax applies to the materials used by the manufacturer in painting the design on the board.

[¶ 6680]

Poster panel displays.—The cost of poster panel displays, including all materials, labour and factory overhead, but excluding installa-

tion or erection costs, is taxable in the hands of the manufacturer. No tax applies to the charge made for the space used by the advertiser or on the cost of applying copy to the poster panel display.

[¶ 6685]

Commercial signs and colourgraph posters.—Tax applies to the retail sale price of signs, showcards and posters and to charges for painting signs, showcards and posters, even when the work is done according to information furnished by the customer and with materials selected by him. Tax does not apply to charges for painting and lettering on real property or on bulletin board displays. The painter or letterer in the latter case is the consumer of the material used in such work and tax applies with respect to the sale of such materials to him.

RULING 6—REPAIRERS AND RECONDITIONERS

[¶ 6690]

(1) **General.**—A person who repairs or improves tangible personal property is deemed to be the vendor of the parts and materials furnished in connection with such work where the value of such parts and materials is substantial in relation to the total charge. Repairmen and reconditioners fall into three classes:

1. those who repair equipment where the value of parts and materials used in the repair work is generally 20 per cent or more of the total charge;
2. those who repair types of tangible personal property where the value of parts and materials furnished in connection with the repair work is generally less than 20 per cent of the total charge;
3. those who repair or recondition items of tangible personal property involving the commingling of certain tangible personal property delivered by the customer to the repairman with similar items of tangible personal property supplied by the repairman so that the customer receives an item of tangible personal property that is not identical property to that delivered by the customer to the repairman.

(2) Examples of the types of repair work where the job usually involves the use of parts and materials having a value of 20 per cent or more of the total charge: motor vehicles, electrical appliances and equipment, mechanical appliances and equipment, boats, motors, aeroplanes, bicycles, musical equipment, sports equipment, radios, television sets and other similar items.

Ruling 6—continued

In this case the repair establishment must be registered as a vendor and collect tax on,

- (a) the entire charge made if there is no segregation of the charges for labour and materials; or
- (b) the charge for the materials and other taxable tangible personal property only if the labour charge is segregated.

Where the vendor regularly does this type of work, he may purchase free of tax on an appropriate purchase exemption certificate the materials and parts he is going to use in performing the repair work.

(3) Examples of the types of repair work where the value of parts and materials furnished in connection with such work is usually less than 20 per cent of the total charge: jewellery, watches, clocks, clothing other than furs, shoes, luggage, leather goods, signs, tires, tubes and fishing rods. Refinishing and repainting of all types of tangible personal property, cleaning and polishing, tree surgery and repair are activities that fall into this classification.

A person doing repair work exclusively on these types of tangible personal property and making no sales of tangible personal property should not be registered as a vendor and should not charge tax on any of the charges he makes for the repair service or other service involved. Such a repairman or reconditioner is the consumer of all materials and supplies and equipment he uses in this work. Tax applies to the cost to him of all taxable material used in his repair and refinishing work. He may pay the tax on the materials he acquires to his supplier as he buys them or, if he must be registered as a vendor because he is, in other branches of his business, regularly selling tangible personal property to purchasers in Ontario, he may buy the materials free of tax on purchase exemption certificate of resale and account for the tax on the materials used in his repair work on the basis of their cost to him.

In respect of the charges made to his customers for repair work in these circumstances, the repairman should not invoice his customer with any tax.

[¶ 6695]

(4) **Commingling of Articles.**—Where the nature of the repair or reconditioning is such that the customer delivers tangible personal property to the repairman or reconditioner to be commingled with similar property supplied by the repairman or reconditioner so that the customer receives a repaired or reconditioned item of tangible personal property that is not or may not be property that is identical with that delivered by the customer to the repairman or reconditioner but which is exactly the same kind of property or is derived from

exactly the same kind of property as that so delivered, tax applies to the net amount charged by the repairman or reconditioner for the repaired or reconditioned item of tangible personal property.

(5) The sale price of factory reconditioned or rebuilt motors when not specifically exempt from tax is subject to tax on the value of the rebuilt article. Generally, it may be said that a rebuilt job is one where the cost of the repair exceeds the value of the tangible personal property before the repair was done and an itemized breakdown of the repair job cannot be furnished to the customer.

(6) A repairman of watches and jewellery including a trade repairman is regarded as a consumer of all watch, clock and jewellery material, irrespective of the quantity purchased, including crystals, findings, chain links used in repairing watches, clocks or jewellery, and tax is payable by the repairman on the price charged by his supplier for such tangible personal property. A repairman of watches and jewellery, including a trade repairman, is deemed to be a retailer of the straps, metal bands, watches, clocks, jewellery, chains and other goods sold by him and tax applies to the sale price of such tangible personal property when it is sold by such repairman to his customer. Purchases of such tangible personal property by the repairman and of materials that will become an ingredient or component part of old tangible personal property that is to be resold by him are purchases made by the repairman for the purpose of resale and consequently are not taxable when the repairman submits properly completed purchase exemption certificates.

[¶ 6696]

(7) **Tire Retreading.**—The entire charge for a retreaded tire is taxable. If the customer brings his own tire into a repairman to be retreaded or recapped, the entire charge is taxable.

[¶ 6697]

(8) **Repair of Real Property.**—The repair and reconditioning of real property constitutes a real property contract or construction contract and tax is payable only in accordance with Ruling 3.

RULING 7—MERCHANDISE USED OR SOLD IN SALES PROMOTION PROGRAMS

[¶ 6698]

(1) Where a vendor issues to his customer redeemable coupons, stamps or other non-monetary paper at the time his customer purchases merchandise, he must calculate the tax payable on the cash

Ruling 7—continued

price charged for the merchandise being sold before deducting therefrom the face value or any other value of any redeemable coupons, stamps or non-monetary paper issued by the vendor at the time of sale.

(2) Where a vendor sells his regular line of merchandise and at the time of sale accepts redeemable coupons, stamps or other non-monetary paper as part payment of the sale price of the merchandise sold, the vendor must collect tax at the time of sale on the price charged for the merchandise whether the vendor grants credit, or accepts payment of such price in redeemable coupons, stamps or other non-monetary paper or in cash.

(3) Where a vendor who has issued coupons, stamps or other non-monetary paper to his customers at the time they bought merchandise from him, acquires premium goods, and keeps them separate from his regular merchandise for distribution to his customers in exchange for the redemption of such coupons, stamps or other non-monetary paper, the vendor is deemed to be the consumer of the premium goods and must pay tax at 3 per cent of the price charged for them by his supplier at the time of purchase.

(4) Where a merchant acquires coupons, stamps or other non-monetary paper that are redeemable by a premium house, to be given to his customers at the time they purchase goods from him, the merchant is deemed to have purchased premium goods at the time he acquired such coupons, stamps or other non-monetary paper equal in value to the amount he paid to acquire such paper and must pay tax at 3 per cent of such amount less any deduction or allowance made by the premium house in respect of stamps returned by the merchant, such stamps having been redeemed by him under subruling 2.

(5) Where a vendor manufactures or purchases tangible personal property and distributes it free of charge to others for advertising purposes, as samples or as awards or prizes the winning of which depends on chance or skill, the vendor is deemed to be the consumer of the property given away and must pay tax on the total manufactured cost or purchase price including federal sales tax.

(6) Where a vendor manufactures or purchases taxable tangible personal property to be given away with taxable tangible personal property sold by him, he may purchase the tangible personal property or the component materials free of tax by issuing a purchase exemption certificate to his supplier certifying that the tangible personal property is purchased for resale.

(7) Where a vendor manufactures or purchases taxable tangible personal property to be given away with non-taxable tangible personal property sold by him, he is deemed to be the consumer of those goods

he purchased to be so given away and must pay tax to his supplier on the purchase price charged therefor.

(8) Where a person is a manufacturer of tangible personal property and arranges to subsidize a vendor of premium goods for each article of premium goods sold or for a specified amount of premium goods sold, the manufacturer is deemed to be the consumer of premium goods to a value equal to the amount of subsidy so paid and must pay tax at 3 per cent thereof.

(9) In addition to the tax collectable under subruling 8, the vendor of premium goods must charge tax at 3 per cent of the price paid by any person who acquires premium goods from him.

RULING 8—EQUIPMENT PURCHASED BY RELIGIOUS INSTITUTIONS

[¶ 6700]

Paragraph 56 of section 5 of *The Retail Sales Tax Act* exempts from tax "equipment, as defined by the Treasurer, that is purchased by a religious institution for use exclusively and not for resale in that part of the premises where religious worship or Sabbath school is regularly conducted".

The Treasurer defines the following items to be such equipment and excludes from the definition all items of clothing, vestments, material and equipment that are not listed:

altars	kneelers and prie-dieux
altar desks	lecterns
baptismal bowls	memorial plaques and tablets
baptismal fonts	monuments and statues
baptismal shells	organs
chairs	pews
chimes and bells	pianos
choir stalls	public address systems
collection plates	pulpits
communion ware	special lighting apparatus
confessionals	stools
confessional counters	tables
draperies and carpets	

Only a religious institution may buy the defined items free of tax and the vendor may sell such items to a religious institution free of tax only when he receives from a duly authorized official thereof a certificate in substantially the following form certifying that the items being purchased are for use exclusively and not for resale in that

Ruling 8—continued

portion of the premises of the religious institution where religious worship or Sabbath school is regularly conducted. A rubber stamp or other means of producing the required certificate may be used by the vendor and the wording of the certificate should be as follows:

I hereby certify that the tangible personal property purchased herein is for use exclusively and not for resale in that part of the premises of the religious institution referred to below, where religious worship or Sabbath school is regularly conducted.

.....
Name of Religious Institute

.....
Date

.....
Signature of Authorized Official

**RULING 9—AUTOMOBILE DEALERS—
DEMONSTRATORS**

[¶ 6705]

(1) An automobile dealer is regarded as the vendor of tangible personal property sold by his salesmen in their own behalf if he aids his salesmen in making such sales in any one or more of the following ways:

- (a) by recording the salesmen's sales on the dealer's record of sales required to be maintained by the Motor Vehicle Branch of the Department of Transport;
- (b) by executing conditional sales agreements with respect to such salesmen's sales in which the dealer appears as the vendor;
- (c) by acting as guarantor on conditional sales agreements executed by the salesmen;
- (d) by requiring or by permitting the salesmen to use the dealer's showroom or other facilities in making such sales.

The dealer accordingly is required to include in his returns under *The Retail Sales Tax Act*, all such sales made by his salesmen, whether on behalf of the salesmen or on behalf of the dealer.

(2) An automobile dealer who also operates a garage shall have a separate vendor's permit pursuant to which he buys and sells new and used automobiles and another vendor's permit pursuant to which he sells car accessories, lubricating oil, etc., and performs service of the character set out under subsection 4 of Ruling 5.

(3) Where a person who is not an automobile dealer employing a salesman or salesmen makes sales of motor vehicles on his own behalf and entirely independently from an automobile dealer who

offers any of the aids described in subruling 1, such a person shall himself be regarded as an automobile dealer who is required to obtain a vendor's permit in his own name, to file returns and to collect and remit tax with respect to all sales that he makes. All references hereinafter to automobile dealers include such a person.

[¶ 6710]

(4) **Automobiles purchased for Demonstration and Display.**—A motor vehicle may be purchased by an automobile dealer free of tax on the issuance of a purchase exemption certificate certifying that the vehicle is being bought for resale by an automobile dealer.

Where a dealer buys new motor vehicles for resale and none of such motor vehicles is licensed in the name of the dealer, but merely held for sale and displayed on the floor or the lot of the dealer, no tax is payable by the dealer with respect to those motor vehicles.

When any of the vehicles, whether new or used, that a dealer holds for resale is licensed in his name, the vehicle in each shall be deemed to be a demonstrator, unless the maximum number of vehicles he holds under licence in his name at any one time during any month exceeds the number of his sales and management personnel, in which case the dealer will be deemed to operate demonstrators during that month equal in number to the number of his sales and management personnel or to the maximum number of vehicles he held under licence in his name at any one time during that month, whichever is the lesser.

The amount of tax a dealer will be required to pay monthly on demonstrators will be calculated as follows:

3 per cent of 3 per cent of the sale price of all vehicles he sells during the month, before deduction of the purchase price of, or allowance granted for, vehicles he took in trade during the month, divided by the number of vehicles sold during the month and multiplied by the number of vehicles deemed to be demonstrators during the month, as set out above.

[¶ 6715]

(5) **Retreading and Recapping of Tires.**—Persons who are in the business of retreading and recapping tires are the vendors of tangible personal property furnished in performing this service and the tax applies to the sale of such property. If a customer has a specific tire recapped or retreaded, tax applies to the entire charge made including all labour in connection with the transaction. If the method of handling retreaded or recapped tires involves commingling of old tires delivered by the customer with similar property turned in by other customers,

Ruling 9—continued

so that the customer does not receive the original tire, tax applies to the entire charge made for the reconditioned tire, minus any allowance as trade-in granted by the tire retreader for the old tire turned in.

[¶ 6720]

(6) **Application of trade-in value on motor vehicles submitted as part consideration in trade for new motor vehicles purchased.**—Where a person who is not a vendor as defined in paragraph 18 of section 1 of *The Retail Sales Tax Act* but is a seller under paragraph 59 of section 1 of the Regulation made under the Act exchanges motor vehicles with another person who is not a vendor as defined in paragraph 18 of section 1 of *The Retail Sales Tax Act* but is a seller under the latter paragraph, that person who pays a net amount to the other person represented by the difference in the fair values of the motor vehicles being exchanged becomes the purchaser and must pay tax at 3 per cent of such amount to the Motor Vehicle Licence issuer at the time of registration of the transfer of the motor vehicles.

In every other case where motor vehicles are being sold, the vendor will be a registered vendor either because he is a vendor as defined in paragraph 18 of section 1 of the Act or because he is a non-resident vendor registered as a vendor under section 3 of the Act. Whenever such a vendor sells a motor vehicle and accepts another motor vehicle as part or entire consideration in trade, such vendor shall charge tax on the excess, if any, of the price being charged by the vendor to the purchaser over the amount the vendor allows to the purchaser as a credit for the motor vehicle submitted in trade.

[¶ 6725]

(7) **Exchange of Vehicle Motors.**—Where an automobile engine is removed from an automobile and a new or reconditioned engine is installed in the same motor vehicle, tax applies to the total charge made for the new engine and for all labour involved and all materials expended in the removal of the worn engine and the installation of the new engine, minus any trade-in allowance granted for the worn engine turned in, unless the charge for the labour involved in the removal of the worn engine and the installation of the new engine is separately billed, in which case no tax applies to that labour.

RULING 10—MACHINERY AND APPARATUS

[¶ 6730]

(1) The term machinery and apparatus and parts thereof as used in paragraph 38 of section 5 of *The Retail Sales Tax Act* means machinery and apparatus and parts thereof that in the opinion of the

Treasurer come in direct contact in the process of manufacture or production of tangible personal property for sale but does not include machinery and apparatus of the following general classifications:

- (a) safety devices and equipment for the prevention of accidents in the manufacturing or production of goods whether or not such equipment is supplied free of charge;
- (b) structures that are adjuncts to or provide access to the machinery and apparatus mentioned herein;
- (c) systems installed by manufacturers or producers for exhausting dust and noxious fumes from their manufacturing operation;
- (d) equipment for hospitals and first-aid stations in manufacturing establishments;
- (e) machinery and apparatus used in the warehousing or distributing or storage areas of a manufacturing plant;
- (f) closed-circuit television equipment for the control and supervision of machinery and apparatus in a manufacturing plant;
- (g) dockboards, magnesium or dock plates and ramps therefor to service manufacturing plant buildings;
- (h) rails and track materials purchased by manufacturers for use only in bringing in raw materials and taking out finished products even though the tracks are located on land owned by the manufacturer;
- (i) pallets, storage containers, lumber, etc., used in the warehousing operation of a manufacturer;
- (j) tanks for refineries for storing fuel oil, lubricating oils and gasoline off the refinery premises;
- (k) tarpaulins for covering raw materials in a manufacturer's storage yard;
- (l) equipment used to carry refuse or waste from production machinery.

(2) The exemption does not apply to office equipment used in the office or in the manufacturing plant.

(3) Where a purchaser of tangible personal property is in doubt as to whether or not a particular item of machinery and apparatus and parts thereof will qualify for the exemption provided by paragraph 38 of section 5 of the Act, he should write to the Retail Sales Tax Branch and request a ruling. In his request for a ruling the purchaser must provide complete details of the machine and its uses in the process of manufacture of tangible personal property to enable the administrators to make a proper interpretation.

Ruling 10—continued

(4) The term “machinery and apparatus and parts thereof” as used in paragraph 38 of section 5 of *The Retail Sales Tax Act* includes pipe, pipe fittings, valves, conduit wire, fittings of all kinds, etc., when purchased to be incorporated into machinery and apparatus to be used directly in the manufacture or production of tangible personal property for sale.

(5) A manufacturer may purchase pipe, pipe fittings, valves, conduit wire, fittings of all kinds, etc., free of tax by issuing to his supplier a purchase exemption certificate certifying that the tangible personal property ordered therein is to be attached to or incorporated into machinery and apparatus used directly in the manufacture or production of tangible personal property for sale.

(6) Where the company orders these items for specific machinery they may be purchased exempt under a purchase exemption certificate issued for the purpose of machinery and apparatus to be used in manufacture. In other cases where the use cannot be determined at the time of purchase, the company may purchase them exempt and must pay tax on the items used under taxable conditions when so used.

(7) Where a company has through experience determined a proportion of taxable use of pipe, pipe fittings, valves, etc., they may apply to the Retail Sales Tax Branch for permission to pay tax on their purchase of these items on a percentage of taxable use basis. The company must file a statement showing the monthly purchases of pipe, pipe fittings, valves, etc., for a period of not less than 12 months showing the amount used under exempt conditions and amount used under taxable conditions which may be used as a basis to determine the proportion of taxable use subject to retail sales tax.

(8) Machinery and apparatus as used in paragraph 38 of section 5 of *The Retail Sales Tax Act* includes machinery and apparatus used directly in the production of gold in its primary form, including bullion, dore, ingot, bar, specie, grain, sheet, foil, powder, sponge, wire, rod and tube, that must be further worked or manufactured, alloyed or fabricated.

**RULING 11—CONSUMABLES:
MATERIALS CONSUMED OR EXPENDED**

[¶ 6735]

(1) The term “materials consumed or expended by the purchaser thereof directly in the process of manufacture or production of tangible personal property for sale” as used in paragraph 39 of section 5 of *The Retail Sales Tax Act* means any item declared to be exempt under the category of processing materials used directly in the production of tangible personal property for sale.

(2) When a purchaser of tangible personal property is in doubt as to whether or not a particular item of processing materials will qualify for the exemption provided by paragraph 39 of section 5 of the Act, he should write to the Retail Sales Tax Branch for a ruling. In his request for a ruling the purchaser must provide complete details on how the processing material will be used in the process of manufacture of tangible personal property.

[¶ 6740]

**RULING 12—REFUNDS UNDER SUBSECTION 6a
OF SECTION 2 OF THE RETAIL SALES TAX ACT**

(1) Subsection 6a of section 2 of *The Retail Sales Tax Act* requires a person who acquires tangible personal property which, at the time of the acquisition, may or may not be machinery and apparatus and parts thereof that in the opinion of the Treasurer are to be used by such person directly in the process of manufacture or production of tangible personal property for sale, to pay the tax thereon at that time and permits the Treasurer to make a refund of the tax so paid if and when he is satisfied that such property is machinery and apparatus and parts thereof that were used by such person directly in the manufacture or production of tangible personal property for sale. The following items are illustrative of the classes of items referred to in subsection 6a of section 2. These and other items of a similar class not listed below that fall into the general class referred to will be subject to consideration for a refund. All such items when purchased by manufacturers or others are taxable in every case except when the purchaser can give the vendor a valid purchase exemption certificate under paragraph 40 of section 5 of the Act certifying that the material is being purchased to be processed, fabricated, or manufactured into, attached to, or incorporated into tangible personal property for the purpose of sale:

pipes
pipe fittings
valves
electric wire and cable

hose of all types, including high pressure hose and plastic hose
hose fittings of patented types such as Weatherhead, Aeroquip, Imperial, Alemite and Zerk

(2) When a purchaser of any of the classes of items listed or referred to in subsection 1 has paid tax on the purchase thereof, he may apply for a refund of the tax so paid when the item involved has been incorporated into his production machinery or apparatus. Refund of retail sales tax will not exceed the same proportion of the tax paid as is allowed to the purchaser by the Department of National Revenue, Excise Division, in respect of sales tax imposed under the *Excise Tax Act* (Canada).

(3) No refund of Ontario retail sales tax in respect of the use as production machinery of any of the items referred to in subruling 1 shall be granted to any applicant until he has shown that he has

Ruling 12—continued

applied for and received refunds of all federal excise tax paid with respect to all of such items that he purchased prior to or had on hand on the 1st day of September 1961 and which he used as production machinery after that date. Refunds of Ontario retail sales tax will be granted only with respect to such items as are purchased on and after the 1st day of September 1961 and then only after the stock of similar items held by the applicant on that date has been used either as production machinery or otherwise.

(4) An applicant for a refund under subsection 6a of section 2 of the Act should file his application in writing in substantially the following form addressed to the Retail Sales Tax Branch, 500 University Avenue, Toronto 2:

Application is hereby made for a refund in the amount of \$. in respect of tangible personal property on which tax was paid under subsection 1 of section 2 of the Act, such property being machinery and apparatus and parts thereof that have been used by the undersigned directly in the manufacture or production of tangible personal property for sale.

This application is supported by the following documents:

1. either one of two schedules as is appropriate:
 - (a) a schedule giving the following information with respect to each invoice covering the purchase of tangible personal property covered by this application:

Date of invoice	Vendor's address
Invoice number	Amount of invoice
Vendor's name	Amount of retail sales tax paid
Amount of federal excise tax paid	
Amount of federal excise tax refunded; or	
 - (b) a schedule in the same form and including all the information required as that accepted by the Department of National Revenue (Excise Division) with respect to the claim in respect of the same material for a refund of federal sales tax, but in addition, showing the amount of Ontario retail sales tax paid and the amount of the refund that is being applied for.
2. a photocopy or a certified copy of such evidence as is provided by the Department of National Revenue (Excise Division) to the applicant as evidence that a refund had been authorized or a credit granted under the *Excise Tax Act* (Canada) and the amount thereof;
3. the certificate of a duly authorized official of the applicant certifying:
 - (a) that the amount shown as having been refunded or credited in the documents referred to in paragraph 2 was received and deposited or applied against later taxes payable and that the payment received or the credit granted was the amount of excise tax referred to in the documents accompanying the application for a refund of Ontario retail sales tax;
 - (b) that the applicant has used, either as production machinery or otherwise, all the material of a character similar to that covered by the

application for refund of tax that the applicant had on hand on the 31st day of August, 1961, and that the applicant has none of such material in stock as of the date of the application;

- (c) that the information given in the application is true and correct in all respects.

.....
Name of Applicant

.....
Date

.....
Address

(5) In individual cases where an applicant for refund of tax under subsection 6a of section 2 has been granted authority under the *Excise Tax Act* (Canada) to deduct from later taxes payable thereunder an established percentage of the total excise tax paid on such material, the applicant may, on submission of a photocopy or a certified copy of such authority, be authorized to deduct the same percentage of retail sales tax paid on such material from subsequent returns under *The Retail Sales Tax Act*, such percentage and authority being subject to review by audit and by reference to similar audits made from time to time under the *Excise Tax Act* (Canada).

[¶ 6745]

RULING 13—HOTELS, CATERERS, RESTAURANTS, RESORTS, SUMMER CAMPS, NURSING HOMES AND OTHER ORGANIZATIONS SELLING MEALS

(1) **Meals.**—Tax applies to every meal sold for more than \$1.50. Tax status is determined by the size of the check and not by the price of the meal eaten by each person in a group. If separate checks are issued, tax applies on each of those checks where the charge thereon exceeds \$1.50. If meals for several persons are placed on one check, the charge is taxable if the total of the check exceeds \$1.50, even if the individual meals or any of them represent an amount of \$1.50 or less.

A meal does not include liquor, beer or wine served with a meal. If these are served with a meal, tax applies separately to the meal and to the liquor, beer or wine and a separate charge must be made for the meal and a separate charge must be made for the liquor, beer or wine. Where soft drinks are served with food, the charge for the food and the soft drinks constitutes the charge for a meal and tax applies only where the charge exceeds \$1.50. But where soft drinks are served without food, the charge for the soft drinks is not for a meal and tax applies to any transaction involving 21c or more.

In any case where the charge for meals or for liquor, beer or wine forms part of the price of admission to a place of entertainment as defined in *The Hospitals Tax Act*, the whole charge is subject to tax thereunder at 10 per cent but in this event the entire charge is exempt from tax under *The Retail Sales Tax Act*.

Ruling 13—continued

If a drive-in has any facilities for eating on the premises even if nothing more than parking space, tax applies to each charge made for hamburgers and other food purchased where the total charge for a particular order is more than \$1.50 and this applies even if the particular order is not eaten on the premises. Prepared food in containers purchased for consumption off the premises where sold, such as ice cream bricks or carry-out meals, is not subject to tax. Take-out meals, whether picked up by the purchaser at the vendor's premises or delivered by the vendor to the purchaser's premises, are not taxable provided that the vendor does not serve the meal in the premises of the purchaser. If take-out meals are served by the vendor in the premises of the purchaser or at any other place where they will be eaten, the vendor is acting as a caterer and must charge tax on his entire charge.

[¶ 6750]

(2) **Railways and airlines.**—Meals served in railway dining cars are taxable if they are ordered within Ontario and the charge therefor exceeds \$1.50.

Meals served gratuitously by airlines are prepared by caterers who sell them to the airlines or by the catering department of the airlines. Tax applies to the price charged by caterers to the airline or to an equivalent fair value for those meals prepared by the airline's catering department.

If such meals are placed aboard aircraft in Ontario, tax applies whether the meals are served in Ontario or elsewhere.

[¶ 6755]

(3) **Tourist resorts, lodges and American Plan hotels.**—These establishments must become vendors under *The Retail Sales Tax Act* and collect tax if their combined charge for room and board ever exceeds \$45 per person weekly or \$6.50 per person daily. Those establishments where the weekly or daily charge exceeds \$45 or \$6.50 respectively per person may use either of the following alternatives in calculating tax:

- (a) The charge for lodging and for meals must be separated in the records of the firm and tax in this event must be applied to each meal where the separate charge exceeds \$1.50. A breakdown of the charges between lodging and meals must be shown on the customer's bill as well as the total amount of tax charged for meals. The breakdown must be reasonable or it may be disallowed and the second alternative method of calculation of tax required. A reasonable breakdown will indicate a charge for meals that approximates the charge for each meal that would be charged to a transient guest who is not subject to a charge for lodging; or

- (b) One-half of the total daily charge for lodging and meals shall be assumed to be for meals. Such charge for meals shall be broken down among three meals in the ratio of

1/6 for breakfast

2/6 for lunch

3/6 for dinner

and the tax shall be applied to those meals where the charge calculated in this manner exceeds \$1.50. In each case, tax must be applied to meals in excess of \$1.50 served to any person other than those who are lodgers in the establishment. No greater tax on meals served to a customer who is lodged in the establishment and is receiving American Plan accommodation need be charged than the amount of tax that applies on the actual charges made for individual meals served and charged separately to guests who are not lodged in the establishment. When a maximum daily meal value of \$10 or a maximum weekly meal value of \$70 representing daily and weekly tax of 30c and \$2.10 respectively has been reached, consideration should be given by the establishment to a separately calculated charge for meals.

[¶ 6760]

(4) **Caterers.**—The entire charge made by a catering firm for meals and other food is taxable, even if the amount per person is less than \$1.50. If a reasonable separate charge is made for the premises provided, the figure is not subject to tax.

If the catering firm provides meals for a club or a similar organization and either the caterer or the club bills each person separately for the meal, tax will not apply to meals for which the charge is \$1.50 or less. Unless each person actually receives a separate bill from the club or the caterer, tax must be applied to the total charge made.

[¶ 6765]

(5) **Summer camps and boarding schools.**—Organizations of this nature are required to become vendors and to charge tax on the value of meals included in an over-all charge for instruction, lodging and meals where the over-all charge exceeds \$9.50 per day or \$66.50 per week. These establishments are not otherwise required to become vendors or charge tax on the fair value of instruction or the use of recreational facilities unless such facilities include tangible personal property for which a charge is made. The amount of such fair value should be separated from an over-all charge for the purposes of calculating sales tax.

If the over-all charge exceeds the daily or weekly figures set out above, an organization may use either of the following alternatives in calculating tax:

Ruling 13—continued

- (a) The over-all charge may be broken down into a separate charge for instruction, for lodging and for meals. The charge for each meal must be shown separately on the bill with the proper tax applied to each meal costing \$1.50 or more; or
- (b) One-third of the over-all charge shall be assumed to be for meals. Such charge for meals shall be broken down among three meals in the ratio of

1/6 for breakfast

2/6 for lunch

3/6 for dinner

and in each case tax shall be applied to meals where the charge calculated in this manner exceeds \$1.50. When a maximum daily meal value of \$10 or a maximum weekly meal value of \$70 representing daily and weekly tax of 30c and \$2.10 respectively has been reached, consideration should be given by the establishment to a separately calculated charge for meals.

[¶ 6770]

(6) **Nursing homes and similar establishments.**—The operators of nursing homes and similar establishments are required to become vendors and collect sales tax in any case where their daily charge for nursing care, lodging and meals is \$9.50 per day or more or if their weekly charge therefor exceeds \$66.50. In this event, the operator of a nursing home or similar establishment may use either of the following alternatives in calculating tax:

- (a) The over-all charge may be broken down into a separate charge for nursing care, for lodging and for meals. The charge for each meal must be shown separately on the bill with the proper tax applied to each meal costing \$1.50 or more; or
- (b) One-third of the over-all charge shall be assumed to be for meals. Such charge for meals shall be broken down among three meals in the ratio of

1/6 for breakfast

2/6 for lunch

3/6 for dinner

and in each case tax shall be applied to meals where the charge calculated in this manner exceeds \$1.50. When a maximum daily meal value of \$10 or a maximum weekly meal value of \$70 representing daily and weekly tax of 30c and \$2.10 respectively has been reached, consideration should be given by the establishment to a separately calculated charge for meals.

[¶ 6775]

RULING 14—FARM MACHINERY, EQUIPMENT, SUPPLIES AND PRODUCTS

(1) The following items of tangible personal property are taxable when they are purchased by farmers or anyone else except when they are purchased by a registered vendor who submits to his supplier a valid purchase exemption certificate:

building materials except clay, sand, gravel and unfinished stone	pet food
bulldozer equipment	pet medicine
calcium chloride	pets
domestic refrigerators	pipes
flower seeds and bulbs	pulleys
fruit jars	replacement batteries
grease guns	replacement tires and tubes
hardware	returnable containers, such as milk cans or pig crates, that remain the property of the farmer or dealer and are returnable to him
harness	
lawn mowers	rope
lawn seed	saddles
light bulbs	stoves
lighting plants	tanks
lubricating oil and grease	tools of whatever character
lumber	trailers
nuts and bolts	truck boxes
ornamental shrubs and trees	trucks
paint for building materials or farm equipment	washing machines

It should be understood that no certificate of a person engaged in the business of farming stating that any of the above goods are being purchased for exclusive use of the farm will permit the vendor to exempt the farmer from paying tax on the purchase of such goods. The vendor thereof will be responsible for any tax that he fails to collect on any taxable sales even when he receives such a certificate respecting such goods.

(2) When a vendor obtains a certificate in the following form, either printed, typed or applied by rubber stamp on the copy of the invoice or other document evidencing a sale,

I hereby certify that I am engaged in the business of farming and that the goods shown on this invoice will be used exclusively in the conduct of that business.

.....
Date

.....
Signature

the following items of tangible personal property may be sold exempt from tax to the person providing such certificates:

Ruling 14—continued

agricultural lime
 bale elevators and loaders
 balers
 barn water systems
 combines
 cultivators
 drainage tile
 dusters
 egg washers
 electric motors for farm equipment
 farm circular saws
 feed grinders
 feed mills
 feed mixers
 fence posts
 grain cleaners
 grain dryers
 grain elevators
 grain picklers and treaters
 hay presses
 livestock feeders

livestock watering troughs
 livestock weigh scales
 manure loaders
 materials and equipment required for
 irrigation purposes
 milk coolers
 mowing machines other than lawn
 mowers
 non-returnable containers, such as
 packing boxes, cartons, baskets, grain
 sacks, turnip wax, paper twine for
 tying tobacco and other containers
 that are sold with the product they
 contain
 peat moss
 pumps
 roto-tillers and weeders
 sprayers
 tobacco lath
 tractors

All parts that are sold by farm supply and implement dealers for implements and machinery that are exempt from taxation pursuant to an end-use certificate in the form set out herein may be sold exempt from tax upon production of a similar certificate. It matters not whether such parts may be used on other machines than farm machines if the person buying them can certify that they are to be used on farm machinery in the business of farming. It should be understood, however, that if the parts referred to are sold to a person who does not certify that he is in the business of farming and that the parts he is purchasing are for exclusive use in the business of farming, the vendor thereof will be responsible for any tax he fails to collect on the sale of such parts.

(3) All machines and implements designed for farm use that are drawn, propelled or powered by motor or animal power, except those listed under sections (1) and (2) above, are exempt from tax regardless of who buys them and no certificate of end-use as set out herein is required to be obtained from the purchaser by the vendor. Examples of such machinery and implements, and also other items of tangible personal property that may be sold exempt from tax without end-use certificate, are as follows:

bale stokers
 baler twine
 baler wire
 barbed wire
 belt harvesters
 binder twine
 brooders
 cattle oilers
 chain, disc and tooth harrows

chick and poultry founts, parts and
 controls
 combination seeders
 corn binders
 corn pickers
 corn planters
 cow chains
 cow halters
 cow stanchions

cream separators	metal egg-laying nests
electric fences	milking machines
ensilage cutters	oat crushers
fanning mills	one-way tillers
farm, hog and poultry fence including farm gates filled with farm, hog or poultry fencing as defined	paper twine
farm seed drills	pick-ups
farm tractor trailers	plants that produce tobacco or food for human consumption
farm wagons	ploughs
feed cookers	potato diggers
fertilizer	potato harvesters
fertilizer spreaders	poultry feeders, waterers and auto- matic shut-offs
forage harvesters	rod weeders
forage wagons	rodent killers
fruit and vegetable graders	scufflers
fungicides	seeds that produce tobacco plants or feed for human consumption or for the consumption of livestock
grain binders	sheep clippers
hammer mills	steel haystack forms
harrow carts	straw
hay conditioners	stubble burners
hay and grain slings	subsoilers
hay loaders	swathers
hay mowers	teat dilators
hay rakes	threshing machines
hay tedders	trees and shrubs that produce food for human consumption
hen specks	weed killers
insecticides	wood sawdust
land packers	wood shavings
land rollers	
livestock feed and medicine	
livestock semen	
manure spreaders	

All livestock may be purchased free of tax and may be sold without collecting tax. Livestock consists of cattle, sheep, goats, hogs, poultry, horses, mules, ponies, donkeys and bees. Livestock does not include dogs, cats, parrots and other birds sold as household pets, live fish sold as pets, turtles, mink, fox, rabbits and other fur-bearing animals. Livestock feed includes all ground and unground grain or other mill feeds, all hay, all straw, even if used in part for bedding or other purposes, salt, silage and other articles fed to livestock. All medicines and drugs fed to or injected into livestock are exempt and no prescription is required.

It should be reiterated that when any of the goods listed in the section designated (1) of this ruling are sold, the vendor must collect tax even when the purchaser supplies the vendor with a certificate stating that he is in the business of farming and that the goods are being purchased for exclusive use on the farm. Where a vendor fails to collect tax on any of the articles referred to he will be held responsible for the amount of tax he fails to collect on the sale of such goods.

[¶ 6780]

**RULING 15—EQUIPMENT PURCHASED BY
PUBLIC HOSPITALS, PSYCHIATRIC HOSPITALS
OR SANATORIA**

**Exempt under Paragraph 37 of Section 5
of The Retail Sales Tax Act**

The Treasurer defines equipment that is exempt from tax under paragraph 37 of section 5 to be all equipment and supplies purchased in good faith for use exclusively and not for resale by public hospitals, psychiatric hospitals or sanatoria as defined, except those items of equipment and supplies that fall within the following described classifications:

Supplies such as soaps, detergents, floor wax, paper towels and all other supplies and materials that are not used directly in connection with the medical or surgical treatment of patients.

Office and Administrative Equipment and Supplies such as accounting and bookkeeping machines, adding machines, bookcases, calculators, comptometers, data processing equipment, duplicators, filing cabinets, office furniture, safes, stationery supplies, typewriters, and equipment and supplies of a similar nature.

Kitchen and Dietary Equipment such as cutlery, dishes, glassware, kitchen cabinets, kitchen utensils, refrigerators, stoves, trays, and all equipment of a similar nature.

Laundry and Housekeeping Equipment such as brooms, clothes dryers, floor polishers, laundromats, laundry carts, vacuum cleaners, wash tubs, washing machines, and all equipment of a similar nature.

Plant Maintenance Equipment such as electrical tools, ladders, small tools, lathes, saws, and all equipment of a similar nature.

General Equipment such as motor vehicles, lawn mowers, uniforms for staff and all other equipment that is not used directly in connection with the medical or surgical treatment of patients.

Furniture such as carpets, coat racks, lounge furniture and all items of furniture that are to be used in any part of a public hospital that is not a bedroom or a place where patients normally receive medical or surgical treatment.

Recreational Equipment such as ping-pong tables, pool tables, motion picture equipment, games, all television sets and radios, and all equipment of a similar nature.

[¶ 6785]

**RULING 16—INSTRUCTION TO SCHOOLS,
SCHOOL BOARDS, UNIVERSITIES AND
SUPPLIERS OF SCHOOL EQUIPMENT,
FURNITURE AND SUPPLIES**

Schedule A.—The following items are taxable when purchased for use by anyone including schools, school boards and universities except when eligible for exemption under Schedule B:

- office furniture and equipment
- office supplies
- cafeteria equipment and furniture
- draperies and curtains
- tools and supplies for school building maintenance

Schedule B.—The following items may be purchased free of tax by a school, school board or university when it certifies that they are being purchased for use by the school, school board or university or for use or consumption by students in the exercise of their functions as students and will be provided to the students free of monetary consideration and will not be sold to them:

- all loose-leaf paper including foolscap, art paper, tracing paper, construction paper and bristol board
- appliances and equipment for instructional purposes in schools teaching home economics
- ball point pens
- brushes—paint, mucilage and blackboard
- chalk
- crayons
- desks and chairs for instructional areas
- drawing boards
- duplicating machines and supplies therefor
- erasers
- equipment for organized school sports including uniforms
- ink
- Materials and apparatus used in vocational guidance and administering psychological and aptitude tests
- maps and other apparatus used in teaching geography
- motion and still film projectors, tape recorders and record players when used as instructional equipment
- mucilage and paste
- mathematical instruments and rulers
- musical instruments
- office equipment and supplies to be used exclusively for instructional purposes in commercial and business education courses
- pencils and pencil boxes and cases
- pens and pen nibs

Ruling 16—continued

- plasticine and modelling clay
- scientific and experimental equipment and supplies including chemicals
- scratch pads
- schoolroom and library furniture
- tools and equipment for instructional purposes in technical schools
- all consumable supplies and materials used in connection with the teaching of manual training, home economics, arts and crafts, music and other technical or academic subjects
- all printed instructional aids
- all equipment and materials used in instructing kindergarten classes

Only a school, school board, or university may purchase items in this schedule free of tax and a vendor may sell such items to a school, school board or university free of tax only when he receives from a duly authorized official thereof, a certificate in substantially the following form:

I hereby certify that

- (a) none of the goods purchased herein will be used as office supplies or as equipment, administrative furniture or tools and supplies for building maintenance; and
- (b) the goods purchased herein will not be sold by the school or university to students or others but will be used or consumed as instructional equipment or supplies or will be given to students for their use or consumption in the exercise of their functions as students.

.....
	Name of School, School Board or University
.....
Date	Signature of Authorized Official

Schedule C.—The following items may be purchased free of tax by anyone including students and other persons regardless of where they are purchased:

- plain and lined exercise books and scribblers, but not if vertically ruled for bookkeeping or accounting
- lined foolscap in book form
- scrap books
- graph paper in book form
- punched loose-leaf refills (plain or lined, but not if ruled for book-keeping or accounting)
- drawing books

school bags and satchels
 music manuscript paper
 motion picture films certified to be "educational" by The National
 Film Board (Canada)

[¶ 6790]

**RULING 16A—BUILDING EXEMPTIONS TO
 HOSPITALS, NURSES' RESIDENCES,
 SCHOOLS AND UNIVERSITIES**

*(1) Paragraph 62 of section 5 of *The Retail Sales Tax Act* exempts from tax tangible personal property that is purchased by the governing board of a hospital, nurses' residence, school or university whenever a project is undertaken to construct or repair a building or other structure on land.

(2) The tangible personal property that may be purchased exempt is any article that will form part of a building or other structure on land. The items may be generally described as building materials and would include normal building equipment such as furnaces, hot-water heaters, air-conditioners, and similar items. This exemption is also extended to include sewage disposal equipment installed in a sewage disposal plant.

*(3) A governing board of a hospital, nurses' residence, school or university may purchase the items exempt and a vendor may sell such items to the governing board of a hospital, nurses' residence, school or university free of tax when he receives from its duly authorized official a certificate, in substantially the following form, certifying that the items being purchased are to be incorporated into and form part of a building or other structure on land:

I/We hereby certify that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land.

.....
 (name of organization)

.....
 (date)

.....
 (signature of authorized
 official)

(4) To obtain the exemption the materials must be:

- (a) delivered to the exempt purchaser;
- (b) paid for by the funds of the exempt purchaser; and
- (c) purchased under the prescribed certificate signed by an authorized official of the exempt purchaser.

*(5) Where the governing board of a hospital, nurses' residence, school or university hires a contractor to construct or repair a building or other structure on land, the contractor, normally a consumer and

Ruling 16A—continued

not permitted to purchase anything exempt, may under prescribed conditions be permitted to purchase exempt from tax materials that enter into and form part of the building or other structure on land, for that particular contract.

*(6) The prescribed conditions are:

- (a) the contractor or the subcontractor, as the case may be, must obtain a special permit in order to purchase exempt from tax tangible personal property that will enter into and form part of the capital works of the governing board of a hospital, nurses' residence, school or university;
- (b) in the application for a special permit the contractor or the subcontractor must give the following information:
 - (i) the contract number,
 - (ii) the name of the governing board of the hospital, nurses' residence, school or university,
 - (iii) the amount of the contract (in the case of the general contractor, the net amount),
 - (iv) the cost of the materials in that contract,
 - (v) the date on which the contract is to begin, and
 - (vi) the date by which the contract is to be completed;
- (c) in the books and records, the contractor or the subcontractor, as the case may be, must segregate the costs and revenue of the contract mentioned in (b) from the costs and revenues of any other contracts;
- (d) the contractor or the subcontractor, as the case may be, must keep separate from all other invoices the invoices for materials purchased for the contract mentioned in (b); and
- (e) the contractor or the subcontractor, as the case may be, must issue a purchase exemption certificate, in the following form, to the supplier for all items of tangible personal property that will enter into and form part of the capital works of the governing board of a hospital, nurses' residence, school or university:

I/We hereby certify that we have been awarded a contract being No. to construct or repair a building or other structure on land for

.....,
(name of governing board)

that we hold a special permit No., and that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land for the above organization.

.....
(signature)

..... (date) (name of contractor)

*(7) Where the contractor or the subcontractor, as the case may be, does not follow the above rules, the Retail Sales Tax Branch may audit and make an assessment of tax on the amount of tangible personal property purchased deemed to be in excess of the requirements for that particular contract and thereafter the contractor or the subcontractor, as the case may be, must submit to the Comptroller such proof as he may require to substantiate that all the materials claimed as purchased for that contract were incorporated into and form part of the building or other structure on land constructed for the governing board of a hospital, nurses' residence, school or university under the terms of that contract.

*(8) Where a contractor or subcontractor, as the case may be, has been awarded a contract to construct a building or other structure on land for the governing board of a hospital, nurses' residence, school or university and in the performance of that contract consumes by incorporating into a building or other structure on land for such governing board of a hospital, nurses' residence, school or university tangible personal property purchased by him prior to that contract date, he may apply for and receive a rebate of the tax paid on the tangible personal property so used.

*NOTE: This exemption does not apply to the purchase of tools, free-standing desks, cabinets, rugs, draperies, pole lights, light fixtures, stoves, ranges, heaters, refrigerators, kitchen waste-disposal equipment, window air-conditioners, dish-washers, furniture, office equipment, or any similar items not built into real property.

Venetian blinds, awnings or any items built to specifications, not transferable to other property, and permanently affixed, will be considered real property.

This exemption does not apply to equipment that is used in the process of the manufacture or production of tangible personal property for sale. Such exemption is given under paragraph 38 of section 5 of *The Retail Sales Tax Act*.

The above exemption cannot be applied to the purchase of ready-mix concrete or hot or cold asphalt mix.

The tax paid by the ready-mix operator and hot or cold asphalt mixer will be paid to the governing board of a hospital, nurses' residence, school or university by the Retail Sales Tax Branch by way of rebate. To obtain the rebate the governing board of a hospital, nurses' residence, school or university must receive a statement from the ready-mix operator or the hot or cold asphalt mixer certifying the quantities and strength of the mix supplied and submit this statement to the Retail Sales Tax Branch.

[¶ 6800]

RULING 17—EQUIPMENT PURCHASED BY FUR TRAPPERS

Paragraph 37 of section 5 of *The Retail Sales Tax Act* exempts from tax "equipment as defined by the Treasurer that is purchased by a person licensed by the Minister of Lands and Forests to trap fur-bearing animals."

The Treasurer defines the following items to be such equipment and excludes from the definition all items of material or equipment that are not listed :

fur stretchers	skinning knives
fish nets	snow-shoes
snare and snare wire	steel traps of all makes

Only a licensed trapper may buy the defined items free of tax and a vendor may sell such items to a licensed trapper free of tax only when he receives from the purchaser a certificate which may be produced on each invoice by the application of a rubber stamp in substantially the following form :

I hereby certify that I hold Ontario Department of
Lands and Forests Trap-line Licence No.
or Resident Trapper's Licence No. dated
....., and that the materials purchased
herein will be used in the business of trapping fur-
bearing animals.

.....
Name of purchaser

.....
Date

.....
Signature

[¶ 6805]

RULING 18—FILMS AND VIDEO TAPE RECORDINGS

The acquisition of motion picture films by theatres for the purpose of exhibiting them to the public is deemed not to be a sale under *The Retail Sales Tax Act*. The consideration paid to the distributor by the theatre for the right to exhibit films is a royalty. Following the exhibit of the film, it is returned to the distributor and no tax is payable by the theatre on this type of transaction.

The acquisition of motion picture films and video tapes by TV stations is deemed not to be a sale under *The Retail Sales Tax Act*. The consideration paid to the distributor by the TV station for the right to exhibit the films or video tapes is a royalty. Following the exhibit of the film or video tape, it is returned to the distributor and no tax is payable by the TV station on this type of transaction.

The charge made to an advertiser by a TV station for exhibiting an advertising commercial is a charge for the use of the time of the station and not a charge for the sale of tangible personal property. The advertiser or his agent produces the film or video tape that constitutes the commercial; tax is payable on the fair value of these films and video tapes on their acquisition by the advertiser or advertising agent and such fair value is as set out below.

Where a TV or radio station produces magnetic tapes, films, discs, slides or photographs, either for its own use or for sale, the station will be regarded as a consumer and must pay tax on the purchase of all materials and equipment used in that connection. Such materials and equipment include all tangible personal property necessary for the recording of programs on tapes, films and discs, and the making of slides, photographs, sets and props. The station in this case will not be required to collect tax on charges made to others for producing such tapes, films, discs, slides and photographs.

In dealing with the details of calculating tax on motion picture films and video tape productions, the following methods of determining fair value and who is the consumer or user of the tangible personal property are set out:

- (1) In this Ruling,
 - (a) "motion picture film production" means the first acceptable finished printed film that is used in Canada if it is produced or received by a person in Ontario and is used in Ontario before being used elsewhere in Canada;
 - (b) "release film prints or copies" means the first acceptable finished printed film used in Canada that is not a motion picture film production and any finished printed film produced subsequent to the first acceptable finished printed film;
 - (c) "video tape recorded production" means the first acceptable finished video tape recording used in Canada if it is produced or received by a person in Ontario and is used in Ontario before being used elsewhere in Canada;
 - (d) "release video tape recordings or copies" means the first acceptable finished video tape recording used in Canada that is not a video tape recorded production and any finished video tape recordings produced from the first acceptable video tape recording;
 - (e) "commercial advertising" means advertising that depicts brand names, symbols, trade-marks, trade names, or that advertises devices, goods or services, and that is commonly known as "commercials";

Ruling 18—continued

(2) Tax at 3 per cent is payable on fair values determined as set out in section 3 of this Ruling,

- (a) by the producer, if he produces the film or video tape in Ontario for purposes other than sale;
- (b) by the importer, if he imports the film or video tape into Ontario for purposes other than sale;
- (c) by the purchaser, if he buys the film or video tape from the producer or the importer, as the case may be;

(3) Subject to section 4, fair values for the purpose of this Ruling shall be determined as follows:

1. regular or feature program motion picture film productions on 8mm, 16mm or 35mm film, 111 per cent of $9\frac{1}{2}$ c. per foot of finished printed film;
2. commercial advertising motion picture film productions on 16mm film, 111 per cent of \$9 per foot of finished printed film;
3. commercial advertising motion picture film productions on 35mm film, 111 per cent of \$4 per foot of finished printed film;
4. regular or feature program video tape recorded productions, 111 per cent of $9\frac{1}{2}$ c. per foot of finished video tape;
5. commercial advertising video tape recorded productions, 111 per cent of \$4.50 per foot of finished video tape;
6. release film prints or copies and release video tape recordings or copies,
 - (a) if they are produced by the person acquiring such prints or copies, 111 per cent of the cost, including all materials, labour and overhead of producing such prints or copies; or
 - (b) if they are not produced but are purchased from others by the person acquiring such prints or copies, the price paid by such person for the prints or copies, including federal sales tax.

(4) In any case where an article referred to in paragraphs 1, 2, 3, 4 or 5 of section 3 is acquired by a person, either by his own production of the article or by purchasing it, at a cost that is less than the fair value as determined under section 3, the fair value thereof shall be determined as follows:

1. if the article is produced by the person acquiring it, 111 per cent of the cost, including all materials, labour and overhead of producing such prints or copies; or
2. if the article is purchased from others, the price paid by the purchaser, including federal sales tax.

(5) No tax applies to motion picture film productions or release film prints or copies thereof or to video tapes produced in Ontario for export and for exclusive use outside of Ontario. Tax applies as outlined on all motion picture films, video tapes or copies thereof that are used to exhibit a motion picture or television program in Ontario. No refund of tax paid on a film, video tape or copy thereof that has been used in Ontario will be granted even though such film or video tape is subsequently shipped for use outside Ontario.

(6) All of the above applies to motion picture film and video tape acquired by anyone except with respect to any film or video tape that has been certified by the National Film Board as educational or any film or video tape that is exempt from tax under the *Excise Tax Act* (Canada) because it is included in Tariff Item 696 or 696a and is certified by the government of the country of production or by an appropriate representative thereof or by a recognized representative of the United Nations Educational, Scientific and Cultural Organization as being of an international, educational, scientific or cultural character.

[¶ 6810]

RULING 19—RELIGIOUS AND EDUCATIONAL PUBLICATIONS

Paragraph 59 of section 5 of *The Retail Sales Tax Act* exempts from tax “religious and educational publications as defined by the Treasurer.”

The Treasurer defines “religious and educational publications” to mean any publication that,

- (a) is not already exempt from tax because it is an item referred to in paragraph 44, 45, 46, 47 or 48 of section 5 of the Act;
- (b) is not stationery, a form, a calendar, a price list, a time table, a rate book, a catalogue, a periodic report, a fashion book, an album, a statistical, financial or biographical survey, report, year book or directory, a transportation, municipal or street directory or guide; or
- (c) is not promotional material or a “sales catalogue” or “sales pamphlet” as defined in paragraphs 53 and 54 of section 1 of the Regulation made under *The Retail Sales Tax Act*,

but that falls into one or other of the following six categories:

1. photographs, paintings, pastels, drawings and other art work and illustrations of all kinds, whether originals, copies or proofs, and printing plates made to produce the same, for use exclusively for the promotion of religion;

Ruling 19—continued

2. religious tracts, Sunday School lesson pictures, unbound pamphlets, books, leaflets, scripture, prayer, hymn and mass cards, mottoes, unframed pictures, and calendars, produced exclusively for the promotion of religion;
3. any film or video tape that has been certified by the National Film Board as educational, or any film or video tape that is exempt from tax under the *Excise Tax Act* (Canada) because it is included in Tariff Item 696 or 696a and is certified by the government of the country of production or by an appropriate representative thereof or by a recognized representative of the United Nations Educational, Scientific and Cultural Organization as being of an international educational, scientific or cultural character;
4. phonograph records and audio tapes approved by the Department of Education of Ontario for instruction in any language;
5. phonograph records and audio tapes purchased for use and not for resale by schools, school boards or universities;
6. printed instructional material purchased for use and not for resale by a charitable organization that is exempt from tax under paragraph (e), (f) or (g) of subsection 1 of section 62 of the *Income Tax Act* (Canada).

[¶ 6815]

RULING 20—CALCULATION OF TAX

(1) **Barter or Exchange of Goods.**—Tax must be paid on the fair value of all tangible personal property exchanged or bartered. For example, if a vendor sells taxable goods for \$10 and accepts as part payment of goods of a different kind valued at \$3, tax must be charged on the total selling price of \$10.

Barter or exchange is clearly distinguishable from the granting of a trade-in allowance which involves the acceptance of an item of the same or similar character as partial payment for an item purchased. The trade-in allowance is not subject to tax, the tax applying only to the net charge over and above the trade-in allowance. For example, if a motor vehicle dealer allows a trade-in allowance of \$1,000 on an old car turned in on the purchase price of a new car priced at \$3,000, tax applies to \$2,000. In contrast if a lumber dealer buys a new truck from a motor vehicle dealer and pays for it in part with a load of lumber which the motor vehicle dealer wishes to use himself, the full price of the truck is taxable as well as the fair value of the lumber.

[¶ 6820]

(2) **Credit Transactions.**—Where tangible personal property is sold on credit, either under conditional sale contract or otherwise, tax is payable by the user or consumer at the time of sale on the whole

amount of the contract price. If at the time of sale, a vendor extends credit for the tax, he assumes the responsibility for its collection and in addition, he is obliged to report such sales on his monthly return covering the period in which the sale was made and remit the tax payable thereon at that time.

The tax to be collected at the time credit sales are made must be calculated on the total sale price including any down payment and the total of the payments to be received later. However, when interest and finance charges form part of the contract but appear as separate items on the bill or invoice given to the customer the tax is not to be computed on such interest and finance charges.

Tax payable under *The Retail Sales Tax Act* must be computed on the total charge for each transaction entering into a monthly statement rather than on the total of the charges shown thereon.

[¶ 6825]

(3) **Refusal to Pay Tax at the Time of Sale.**—If a purchaser refuses to pay tax at the time a sale is made, the vendor should as proof of the refusal have the purchaser sign a brief statement to this effect on the sales invoice or on a separate sheet of paper. The vendor may then avoid responsibility for the collection of the amount of tax in dispute by submitting to the Comptroller of Revenue within 10 days, a written statement containing the date of sale, other details of the sale, the name and address of the purchaser, the amount of tax owing, and the statement of refusal signed by the purchaser and witnessed by the vendor.

[¶ 6830]

(4) **Federal Sales Tax.**—The federal sales tax imposed under the *Excise Tax Act* (Canada) must be included as part of the price or fair value of tangible personal property charged to a purchaser and thus must be included in the price before applying the retail sales tax.

This is necessary because the federal tax is a tax imposed on manufacturers based upon the selling price of their products. The federal sales tax is a cost of manufacture and may or may not be shown separately on the manufacturer's invoice. For example, if a person buys a suit, part of his purchase price represents federal sales tax but this fact is not evident. Therefore, it would obviously be inequitable not to include federal sales tax in the taxable price for retail sales tax purposes, just because the federal tax in certain instances happens to be separately billed. Therefore, if an article sells for \$111 which is made up of an invoice price of \$100 and federal sales tax of \$11, the retail sales tax to be added is three per cent of \$111 or \$3.33.

Ruling 20—continued

[¶ 6835]

(5) **Delivery Charges.**—Tax does not apply to transportation charges provided that,

- (a) the sale or purchase is made at a “f.o.b. supply point” price ;
and
- (b) the amount of freight, express, postage, cartage, and other transportation costs is shown separately on the sales invoice when the freight or other transportation charge is prepaid by the supplier.

Tax does not apply to transportation charges which are paid by the purchaser to a carrier, provided the purchase price is f.o.b. supply point.

When tangible personal property is sold at a retail sale for a delivered price “f.o.b. destination” no deduction may be taken for transportation charges incurred in delivery by the vendor to the carrier even when paid to the carrier by the purchaser and deducted by him from the sales invoice as a “freight allowance”, or incurred by the vendor in the operation of his own delivery facilities. Such transportation costs form part of the “fair value” of the tangible personal property sold to the purchaser and must be included in the laid down price of the tangible personal property sold.

[¶ 6840]

(6) **Interprovincial and Foreign Trade.**—(a) Tax does not apply to sales of goods that are shipped to a point outside Ontario by the vendor by means of,

- (i) facilities operated by the vendor,
- (ii) delivery by the vendor to a common carrier for shipment to a consignee at such point, or
- (iii) delivery by the vendor to a customs broker or forwarding agent for shipment outside Ontario,

if the details of such shipment are supported by evidence as required by clause (b) ;

- (b) Documentary evidence such as bills of lading, etc., that goods were shipped to a point outside Ontario by means of,
 - (i) facilities operated by the vendor,
 - (ii) delivery by the vendor to a common carrier for shipment to a consignee at such point, or
 - (iii) delivery by the vendor to a customs broker or forwarding agent for shipment outside Ontario,

must be retained by the vendor to support exemptions from tax claimed under clause (a).

The fact that a purchase is made and delivery taken within Ontario is evidence of consumption or use within Ontario. As long as delivery is taken in Ontario the vendor cannot have knowledge of the ultimate destination of the goods and must collect tax on the goods so delivered.

[¶ 6845]

(7) **Returned Merchandise.**—If the full purchase price of an item of tangible personal property is refunded by the vendor, he may refund the amount of tax previously collected. If the vendor makes a partial refund only in consideration of the goods being returned for resale, the tax refund must not be more than 3 per cent of the actual refund allowed on the purchase price.

[¶ 6850]

(8) **Separate Sales.**—Where a person buys several articles from the same vendor during one day or during one month, tax must be calculated on each sale separately and not on the total of the sales or the total of the amount invoiced during the month. In the case of several items making up one purchase, the rule that all items purchased through one telephone call or before the purchaser steps out of the door is a safe one to use in determining whether or not such items form one purchase. Two separate sales are considered to have been made when a customer purchases items from two separate departments of the same vendor.

[¶ 6855]

(9) **Service Charges.**—Where the vendor of an appliance, a machine or any other article binds himself for its upkeep during a certain period without making an additional charge, such vendor must collect the tax on the total amount of the sale without deducting anything as charges for service. When the vendor exacts an additional payment for his services and enters it separately in his account, the tax must be collected on the selling price of the tangible personal property without including the charge for service.

[¶ 6860]

(10) **Layaway Sales.**—In the case of a layaway or will-call sale including one on which a deposit is made by the customer, the vendor must report the total sale price for the tangible personal property involved during the taxable period in which it is entered as a sale in the vendor's books. If the deposit is forfeited by the customer or if instalment payments have been made by the customer and forfeited, the vendor may subsequently claim a credit of tax equal to the difference between the tax originally reported and the tax applicable to the amount of the deposit or instalment payment, provided that the tangible personal property involved in the transaction is returned to stock and intended for resale.

Ruling 20—continued

[¶ 6865]

(11) **Finance Charges.**—The fair value of tangible personal property does not include finance charges, carrying charges or interest charges on conditional sale contracts or other contracts providing for deferred payments of the purchase price if the amount of such finance charges, carrying charges or interest is in addition to the usual or established cash selling price and such amount is,

- (a) segregated on the invoice or bill of sale; or
- (b) billed separately to the customer.

Unless these conditions are met, such charges shall be deemed to be part of the selling price and, therefore, of the fair value for the purpose of computing the tax.

[¶ 6870]

(12) **Guaranteed Parts, Replacements.**—No tax is charged on the replacement of guaranteed parts if such parts are not paid for by the user, as it is presumed that the average cost of replacing parts is included in the sale price of the article guaranteed and tax is paid on such sale price at the time of sale.

[¶ 6875]

(13) **Trade and Cash Discounts.**—Trade and cash discounts may be deducted from the purchase price and tax applied on the net figure. Trade discounts must be deducted on the sales invoice at the time of sale to be deductible from the taxable price. Cash discounts allowed at a date subsequent to the date of sale but in accordance with the terms of sale may be considered deductible from the taxable price. Quantity or volume discounts allowed subsequent to the date of sale may not be deducted from the taxable price.

Merchandise premium stamps or coupons are not regarded as trade or cash discounts.

[¶ 6880]

(14) **Lost, Damaged or Destroyed Goods.**—If goods are lost, damaged or destroyed in transit or at any other time after they have become the property of the consumer or user, sales tax is calculated and payable on the full purchase price. If goods are lost, damaged or destroyed while they are still the property of the vendor, tax is calculated and payable only on the amount that any subsequent purchaser pays for them in their damaged condition.

A carrier may act for either the vendor (if goods are sold at a delivered price) or the purchaser (if goods are sold F.O.B. supply point).

A vendor or supplier filing a claim with his carrier or insurer, with respect to goods which were lost, damaged or destroyed while

the goods were either in storage or being transported prior to the completion of the sales transaction, should not include the sales tax in his claim. A purchaser filing a claim with his carrier or insurer with respect to goods subject to tax which were lost, damaged or destroyed in transit, should include the tax in his claim. If sales tax is not payable by the purchaser with respect to these goods, then no claim for tax should be made.

If a carrier or an insurer takes possession of the damaged goods as a result of the claim of either a vendor or a purchaser, the amount claimed shall be subject to the provisions of the preceding paragraphs. If a carrier or an insurer uses the damaged goods so acquired, he shall report and pay tax on their fair value in the damaged condition. If the damaged goods are resold by the carrier or insurer, tax must be collected on the selling price. If a carrier or an insurer is regularly selling damaged goods that he has acquired, he should become registered as a "vendor" under *The Retail Sales Tax Act* for this purpose. A "single event vendor's permit" should be used when occasional sales of this type are made by persons or firms that do not hold a regular vendor's permit.

[¶ 6885]

RULING 21—BUILDING EXEMPTIONS TO MUNICIPALITIES AND LOCAL BOARDS

* (1) Paragraph 63 of section 5 of *The Retail Sales Tax Act* exempts from tax tangible personal property that is purchased by a municipality or local board thereof whenever a project is undertaken to construct or repair a building or other structure on land.

(2) The tangible personal property that may be purchased exempt is any article that will form part of a building or other structure on land. The items may be described generally as building materials and would include normal building equipment such as furnaces, hot-water heaters, air-conditioners, and similar items. This exemption is also extended to include sewage disposal equipment installed in a sewage disposal plant.

* (3) A municipality or its local board may purchase the items exempt and a vendor may sell such items to a municipality or local board thereof free of tax when he receives from its duly authorized official a certificate, in substantially the following form, certifying that the items being purchased are to be incorporated into and form part of a building or other structure on land:

I/We hereby certify that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land.

.....
(name of organization)

.....
(date)

.....
(signature of authorized official)

Ruling 21—continued

- (4) To obtain the exemption the materials must be:
- (a) delivered to the exempt purchaser;
 - (b) paid for by the funds of the exempt purchaser; and
 - (c) purchased under the prescribed certificate signed by an authorized official of the exempt purchaser.

*(5) Where a municipality or its local board hires a contractor to construct or repair a building or other structure on land, the contractor, normally a consumer and not permitted to purchase anything exempt, may under prescribed conditions be permitted to purchase exempt from tax materials that enter into and form part of the building or other structure on land, for that particular contract.

*(6) The prescribed conditions are:

- (a) the contractor or the subcontractor, as the case may be, must obtain a special permit in order to purchase exempt from tax tangible personal property that will enter into and form part of the capital works of a municipality or local board thereof;
- (b) in the application for a special permit the contractor or the subcontractor must give the following information:
 - (i) the contract number,
 - (ii) the name of the municipality or the local board thereof,
 - (iii) the amount of the contract (in the case of the general contractor, the net amount),
 - (iv) the cost of the materials in that contract,
 - (v) the date on which the contract is to be begin, and
 - (vi) the date by which the contract is to be completed;
- (c) in the books and records, the contractor or the subcontractor, as the case may be, must segregate the costs and revenue of the contract mentioned in (b) from the costs and revenues of any other contracts;
- (d) the contractor or the subcontractor, as the case may be, must keep separate from all other invoices the invoices for materials purchased for the contract mentioned in (b); and
- (e) the contractor or the subcontractor, as the case may be, must issue a purchase exemption certificate in the following form to the supplier for all items of tangible personal property that will enter into and form part of the capital works of the municipality or local board thereof:

I/We hereby certify that we have been awarded a contract being
 No. to construct or repair a building or other structure
 on land for

.....,
 (name of municipality)

that we hold a special permit No., and that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land for the above organization.

.....
(signature)

.....
(date)

.....
(name of contractor)

*(7) Where the contractor or the subcontractor, as the case may be, does not follow the above rules, the Retail Sales Tax Branch may audit and make an assessment of tax on the amount of tangible personal property purchased deemed to be in excess of the requirements for that particular contract and thereafter the contractor or the subcontractor, as the case may be, must submit to the Comptroller such proof as he may require to substantiate that all the materials claimed as purchased for that contract were incorporated into and form part of the building or other structure on land constructed for the municipality or local board thereof under the terms of that contract.

*(8) Where a contractor or subcontractor, as the case may be, has been awarded a contract to construct or repair a building or other structure on land for a municipality or local board thereof and in the performance of that contract consumes by incorporating into a building or other structure on land for such municipality or local board thereof tangible personal property purchased by him prior to that contract date, he may apply for and receive a rebate of the tax paid on the tangible personal property so used.

* NOTE: This exemption does not apply to the purchase of tools, free-standing desks, cabinets, rugs, draperies, pole lights, light fixtures, stoves, ranges, heaters, refrigerators, kitchen waste-disposal equipment, window air-conditioners, dishwashers, furniture, office equipment, or any similar items not built into real property.

Venetian blinds, awnings or any items built to specifications, not transferable to other property, and permanently affixed, will be considered real property.

This exemption does not apply to equipment that is used in the process of the manufacture or production of tangible personal property for sale. Such exemption is given under paragraph 38 of section 5 of *The Retail Sales Tax Act*.

The above exemption cannot be applied to the purchase of ready-mix concrete or hot or cold asphalt mix.

The tax paid by the ready-mix operator and hot or cold asphalt mixer will be paid to the municipality or local board thereof by the Retail Sales Tax Branch by way of

Ruling 21—continued

rebate. To obtain the rebate the municipality or local board thereof must receive a statement from the ready-mix operator or the hot or cold asphalt mixer certifying the quantities and strength of the mix supplied and submit this statement to the Retail Sales Tax Branch.

[¶ 6890]

RULING 22—PARTNERSHIP AND JOINT VENTURE TRANSACTIONS

(1) *The Retail Sales Tax Act* provides that every person who acquires tangible personal property for use in Ontario must pay a tax of 3 per cent of the fair value thereof unless the property is of a class or kind that may be purchased exempt. A sale of tangible personal property by a partner to a partnership (or joint venture) of which he is a member, involves a change of ownership and the purchase price is taxable. The same principle applies when the property is transferred from a partnership (or joint venture) to a partner thereof.

(2) For the purposes of tax administration, transactions of this nature will be treated in the following manner:

1. Property sold by a partner to a partnership is taxable in the hands of the partnership on the total selling price, but the selling partner may claim a reduction equal to that portion of the tax properly chargeable to him in the accounts of the partnership if he has previously paid tax on the same property or if he owned the property prior to September 1, 1961. If the selling partner did not pay tax on an earlier acquisition of the property after September 1, 1961, then the sale would be taxable in the regular manner and no refund would be involved.
2. If a partner repurchases property previously sold by him to a partnership, the repurchase will not be taxable, provided that the purchasing partner originally acquired the property prior to September 1, 1961, or on a tax-paid basis thereafter.
3. Property purchased by a partnership from an outside supplier before September 1, 1961, or on a tax-paid basis thereafter and then resold to one of the partners is taxable on the resale price less a proportion thereof equal to the proportion of the original purchase price that was properly chargeable to the repurchasing partner.
4. The purchase of an interest in an existing partnership is a taxable transaction and tax is payable on a proportion of the value of partnership-owned tangible personal property equal to the proportionate interest acquired in the partnership.

[¶ 6895]

RULING 23—TRUCKS AND BUSES USED IN INTERPROVINCIAL AND INTERNATIONAL COMMERCE

(1) As a general principle, when a truck or bus is purchased and delivery is taken in Ontario, use is presumed in Ontario until use outside Ontario is established. Similarly, when a truck or bus is purchased outside Ontario and delivery is taken outside Ontario, the truck or bus is presumed to be for use outside Ontario until use in Ontario is established.

(2) Transportation companies rendering interprovincial or international services are required to pay retail sales tax on all purchases of motor vehicles registered in the province and on all purchases made to maintain said motor vehicles in good order, based on the proportion of mileage covered by these motor vehicles in the province compared to their total mileage.

(3) In the case of interprovincial and international companies whose motor vehicles are not registered in Ontario, the words "motor vehicles registered in the province" means motor vehicles provided with markers issued by the Department of Transport of Ontario.

(4) This ruling is applicable only to transportation companies making regular trips as authorized by licences issued under the *Motor Vehicle Transport Act* (Canada) or the Interstate Commerce Commission, and only applies to purchases of trucks, buses, parts and accessories used to render interprovincial or international services.

[¶ 6900]

Procedure under Ruling 23.—(a) An interprovincial or international trucking or bus company may be allowed to purchase trucks, buses, parts and accessories without the payment of tax to the supplier thereof by applying for and receiving a special permit and special purchase exemption certificates for use with that permit.

(b) On receipt of the special permit and related purchase exemption certificates, a company may purchase trucks, buses, parts or accessories without the payment of sales tax to the vendor or supplier thereof, but it must report the taxable portion of such purchases monthly on line 2 of its return and the applicable tax on line 4 of the return.

(c) The taxable proportion of purchases to be reported monthly to the Retail Sales Tax Branch shall be a proportion of the total purchases of trucks, buses, parts or accessories for the month equal to the proportion of miles travelled by vehicles within the province during the month to the total number of miles travelled in the same period.

Ruling 23—continued

- (d) Where retail sales tax has been paid to the suppliers of any items covered by this ruling, the amount of purchases and the related tax may be deducted from the taxable portion and the tax respectively, to be reported on lines 2 and 4 of the monthly return.
- (e) Where the proportion of mileage travelled within the province to the total number of miles travelled fluctuates from month to month, the company must use the annual fleet percentage of miles travelled within the province to make a year-end adjusted calculation of its tax liability. Fleet percentage is determined by calculating the percentage of miles travelled within the province compared to the total number of miles travelled by trucks or buses used in interprovincial or international service.

[¶ 6905]

SPECIAL PURCHASE EXEMPTION CERTIFICATE FOR
THE USE OF INTERPROVINCIAL AND INTERNATIONAL
TRUCK AND BUS COMPANIES

I/we hereby certify:

- 1. that I/we hold a special vendor's permit, the number of which is issued to me/us under subsection 2 of section 3 of *The Retail Sales Tax Act*, and
- 2. that I/we have been granted permission to purchase the following items without payment of tax to the holder of this certificate (supplier):
 - ☐ (a) trucks or buses;
 - ☐ (b) parts for repair of trucks or buses;
 - ☐ (c) accessories for trucks or buses.

dated

.....
signature of purchaser
.....
name of company

[¶ 6910]

RULING 24—DROP SHIPMENTS

- (1) The term “drop shipment” refers to the act of delivering goods to a person who is not the customer of the vendor.
- (2) When a vendor receives an order from a non-resident purchaser for goods to be delivered to the non-resident purchaser at his place of business outside of Ontario, or to a customer of the non-resi-

dent purchaser who also resides outside of Ontario, the Ontario vendor is not required to collect Retail Sales Tax on the purchase price of the goods delivered. In both these cases the delivery is to a person whose place of business or residence is outside of Ontario, and therefore there is no purchaser in Ontario who may be taxed.

(3) If the Ontario vendor is required by the non-resident purchaser to make delivery of the goods directly to an Ontario customer of the non-resident purchaser, the Ontario vendor will be required to collect the tax on the purchase price of the goods unless he obtains from the customer of the non-resident purchaser a purchase exemption certificate in the following form.

[¶ 6915]

DROP SHIPMENT PURCHASE EXEMPTION CERTIFICATE

I/we hereby certify:

(1) that I/we hold vendor's permit number and that it was issued under subsection 2 of section 3 of *The Retail Sales Tax Act*.

(2) that I/we are engaged in the business of selling

(3) that the tangible personal property, namely,

purchased/imported from

Name

Address

has been delivered to me by

Name

Address

(a) is exempt under section 5(38) or section 5(39) of the Act or is being purchased for resale; or

(b) is being purchased for our consumption or use and will be reported as purchases for own consumption and tax paid thereon on the return reporting the taxes collectable and payable for the month in which the purchase was made.

.....
(signature of receiver of goods)

.....
(address)

dated 19....

at

SPECIAL INFORMATION FOR CONTRACTORS

This booklet is designed to assist contractors in determining and reporting their correct tax liability to the Treasurer of Ontario. Of necessity, the information contained herein is general in nature. It is requested that any questions not answered by it be submitted in writing to the local District Retail Sales Tax Branch Office for specific rulings. See page 24 [CCH page 152] for complete list.

The information contained in this booklet is not to be construed as all-inclusive or legally binding on the department and it is subject to change without notice.

[¶ 6920]

SPECIAL INFORMATION FOR CONTRACTORS

1. The term "contractor" refers to persons undertaking construction contracts (that is, a contract for erecting, improving, remodelling or repairing a building or other structure on land), but not including contracts for,

- (a) the installation in real property of articles of tangible personal property which do not become a part of real property;
- (b) the sale of tangible personal property to others for their own consumption and use; or
- (c) the manufacture of tangible personal property to the specifications set by the person who in turn will resell the tangible personal property to purchasers and users.

The term "contractor" includes both general contractors and those contractors typically known as subcontractors, whether in particular instances the latter are operating in the capacity of subcontractors or primary contractors. The term "contractor" includes all types of work on real property, including contractors in the following fields:

air conditioning
bricklaying
bridge
carpentry
cement
concrete
decorating
electrical
elevator
grading
heating
insulating
landscaping

painting
papering
paving
plastering
plumbing
road
roofing
sheet metal
stonemasonry
steel
tile and terrazzo
ventilating
well drilling

[¶ 6922]

2. Basic Rule.—On all construction contracts, the contractors, as defined, are consumers of tangible personal property used by them in fulfilling construction contracts, regardless of the precise form which the contract takes: fixed price, time and materials, cost plus, or any variation of these, or any other. In this regard, Ontario differs from several other provinces in the treatment provided.

Sales tax applies, therefore, to the purchase by the contractor of supplies, equipment, materials and other taxable tangible personal property for use in fulfilling construction contracts.

[¶ 6924]

3. Registration.—A contractor engaged only in contracting work as defined, and not also engaged in manufacturing as a manufacturing contractor, or in making sales at retail, shall not be issued a vendor's permit. The making of an occasional sale, as, for example, of used equipment or surplus supplies or as an accommodation to another contractor, does not make the contractor a vendor liable for registration.

Thus, such a contractor cannot buy materials free of tax by issuing purchase exemption certificates because the materials are not to be resold by him as taxable materials.

The exception to this would be when a contractor fulfills a contract under Ruling 16A or Ruling 21. (See para. 5.)

Tax is collected by his suppliers on all of his taxable purchases. The contractor does not need to collect tax, as such, from his customer or to itemize the amount of tax involved, even on a time and materials type of contract where the materials are billed separately to the customer.

Where a contractor is engaged as a manufacturer he must be registered as a vendor. (See para. 6.)

Where a contractor is making sales at retail he must be registered as a vendor. (See para. 7.)

[¶ 6926]

4. Bidding on Contracts.—A contractor when submitting a bid for a completed building or structure must bid on a tax-paid basis. (See also para. 5.) In other words, the amount of tax paid by a contractor on the materials, supplies and other things purchased by him for a contract, should not be shown separately in his bid. There is one exception and that arises when the contractor is supplying to his principal the items that remain tangible personal property in the hands of the principal. When this happens he must be registered as a vendor and report the sales and taxes collected to the Retail Sales

Special Information for Contractors—continued

Tax Branch as an ordinary vendor. The contractor must charge his principal the tax applicable and must show this tax separately. (See para. 9.)

A contractor submitting a bid must observe the following rules:

(a) **Materials Only Contract**

(1) **Delivery to the job site**

Tax applies to the total amount of the bid (contractor is a contractor-retailer and a vendor of the tangible personal property sold to the contractor who is the consumer).

(2) **Delivery extra from supply point to job site**

Tax applies to the supply point price quoted (contractor is a contractor-retailer and a vendor of the tangible personal property sold to the contractor who is the consumer). (See para. 20, Ruling 20(5) re delivery extra quotations.)

In both of the above cases the amount of tax must be shown separately and distinctly from the amount charged. (See para. 16, Regulation 12(2).)

(b) **Materials and Install Contract**

(1) **Materials purchased will be tax paid materials**

If materials are brought into the province the tax must be calculated and sent into the Retail Sales Tax Branch. (See para. 10, also Act, section 2(7).)

(2) **Materials manufactured by the manufacturer-contractor**
Tax must be calculated properly (see para. 6) and remitted to the Retail Sales Tax Branch.

(c) **Contract to build a building or structure not involving a resale of tangible personal property**

The tax should not be shown separately, regardless of the contract and whether it is a lump sum, time and materials, cost plus or any variation of these or any other terms therein.

(d) **Contract to build a building or structure and the supply and installation of articles that remain tangible personal property**

This type should be broken down into two parts. One part is for the construction of a building or other structure and should not show tax separately. The other part is for the sale of tangible personal property and must show the tax separately from the charges for the goods.

[¶ 6928]

5. **Bidding on Contracts to construct or repair a building or other structure on land for:**

the governing board of a hospital

the governing board of a nurses' residence

the governing board of a school
the governing board of a university
a municipality or a local board thereof

A contractor or a subcontractor submitting a bid for the construction of a building or other structure on land for one of the above organizations must not include retail sales tax (see below).

The organizations are permitted under paragraphs 62 and 63 of Section 5 of the Act to purchase exempt all materials that enter into and form part of a building or capital work.

See Ruling 16A (para. 19). — Hospitals, Nurses' Residences, Schools and Universities.

See Ruling 21 (para. 21). — Municipalities and Local Boards.

These rulings set up a procedure whereby a contractor may buy exempt the items that form part of a capital work when he has been awarded a contract by one of the above organizations. The contractor must apply for and receive a special permit before issuing purchase orders to his suppliers for materials.

The application for a special permit and the permits themselves will be issued by the District Offices of the Retail Sales Tax Branch.

NOTE: Some contracts involve the purchase and installation into real property items that remain tangible personal property. Other contracts involve the purchase of desks, tables and other equipment on behalf of the exempt organization.

When this happens the contractor must buy them exempt, and

1. Charge no tax to the exempt organization if the items are exempt to the organization under Ruling 15 or 16, (see paras. 17 and 18); the contractor must obtain a certificate from the organization, or
2. Charge tax on the items that are not exempt.

THE CONTRACTOR MUST STATE IN HIS BID FOR A CONTRACT OF THIS TYPE THAT TAX WILL BE CHARGED ON ALL ITEMS NOT EXEMPT WHEN GOODS ARE DELIVERED.

[¶ 6930]

6. **Manufacturer-Contractor.**—A manufacturer would be any person who transforms (tangible personal property) by the use of hands, machinery or by other agency, often with division of labour and the use of machinery, tangible personal property into other forms suitable for use as tangible personal property. Examples of businesses classi-

Special Information for Contractors—continued

fied as manufacturers or producers for purposes of the machinery and apparatus exemption and the consumables exemption are listed in Rulings 10 and 11.

A manufacturer-contractor is a manufacturer who fabricates tangible personal property which he may use in the performance of contracts undertaken by him or that may be sold to someone else. Therefore he acts as a manufacturer, manufacturing tangible personal property; then later consumes those manufactured articles by incorporating them into real property.

Consumption by a contractor is further defined in "Cairns Construction Limited versus the Government of Saskatchewan, Supreme Court of Canada, June 13, 1960". This action decided a question on the application of sales tax on materials incorporated into houses and sold as complete units. The question was whether the builder was the user or the consumer, and hence whether the builder was liable to tax.

It was held that a person who purchases tangible personal property and incorporates it into something else, in the process of which it loses its own identity as tangible personal property, is the final user of that tangible personal property so incorporated. The nails hammered into the structure, the paint placed on the walls, or the shingles attached to the roof were finally used for the purpose for which they had been created when they became a part of the building. Equally, the prefabricated parts were finally used when they were incorporated into the houses which the person constructed.

The amount on which tax is payable by a manufacturer-contractor when he consumes his own product is the total of,

- (a) the materials that went into the manufactured article;
- (b) the labour expended on manufacturing that article;
- (c) the factory overhead costs related to that article; and
- (d) the tax payable under the *Excise Tax Act* (Canada).

In total, the manufacturer-contractor shall pay tax directly to the Treasurer of Ontario on:

- (a) the total cost of the tangible personal property he has manufactured (as described in the above paragraph); and
- (b) the purchase price of materials on which no further manufacturing must be done (where purchased exempt under a purchase exemption certificate or imported by him into Ontario).

In all other cases the manufacturer-contractor shall,

1. pay tax to his supplier on:

- (a) tangible personal property to be consumed by him in the performance of a construction contract where no additional manufacture is required in order to make it usable or consumable;

- (b) all machinery and equipment used on construction work or erection work; and
 - (c) all machinery and equipment used elsewhere that is not a manufacturing process.
2. purchase exempt under purchase exemption certificate:
- (a) all materials on which further manufacturing must be done in order to make it usable or consumable;
 - (b) all raw materials to be processed, fabricated or manufactured into, attached to or incorporated into, tangible personal property for own consumption or for sale;
 - (c) all machinery and apparatus and parts thereof that in the opinion of the Treasurer are to be used by the purchaser thereof directly in the process of the manufacture or production of tangible personal property for own consumption as a contractor or for the purposes of sale; and
 - (d) materials that, in the opinion of the Treasurer, are to be consumed or expended by the purchaser thereof directly in the process of the manufacture or production of tangible personal property for own consumption as a contractor or for purposes of sale.

[¶ 6932]

7. Contractor-Retailer.—A number of contractors, particularly those known as subcontractors, not only perform construction contract work or manufacturing contract work, but also make sales at retail. This is particularly true in electrical, plumbing, heating and similar fields. In addition, some vendors who are primarily in the business of operating retail stores perform some construction contracts or manufacturing contracts.

Any contracting firm which, besides performing contract work, sells tangible personal property to purchasers in Ontario in the regular course of its business, must obtain a vendor's permit and collect tax in the usual fashion on all retail sales. Such a firm must keep separate records for the contract work, in which case tax applies to the fair value of all taxable tangible personal property transferred to contract work at the time or in the period when such transfer is made, regardless of the time when payment is obtained for the contract. Fair value in this instance normally will be interpreted to be the price paid by the contractor to the supplier. (See *Delivery Charges*, para. 20 [CCH ¶ 6958].)

As long as the retail vending is a substantial portion of the total business of the firm, all purchases of tangible personal property which are either to be resold at retail or to be used in the performance of construction contracts may be purchased tax free by the issuance by

Special Information for Contractors—continued

the contractor-retailer of a purchase exemption certificate. If the retail business is of a limited and irregular character, all purchases should be made on a tax-paid basis.

[¶ 6934]

8. **Installation Contract.**—A contract for installation of tangible personal property which does not become a part of real property, even though it may be attached to real property, is *not* a construction contract. The sale of this kind of tangible personal property is a retail sale and the entire price, including the charge for installation, is taxable unless the installation charged is quoted separately in the contract and on the invoice to the customer. In the latter case the installation charge is not subject to tax.

Examples of the items installed in this fashion are: draperies, shades, linoleum and carpets not permanently affixed, rugs, stoves, ranges, heaters, refrigerators, kitchen waste-disposal equipment, window air-conditioners, dishwashers, cabinets and similar items not built into real property.

Venetian blinds, awnings and similar items built to specifications and not transferable to other buildings will be considered to be part of real property.

Light fixtures attached to real property will be considered real property. Pole lights, free-standing light fixtures and similar items are not considered to be real property.

If a construction contract calls also for installation of tangible personal property which does not become real property, this portion of the contract shall be treated for tax purposes as a separate installation contract. The overall contract must separate the charge for the tangible personal property to be installed from that for the construction of real property. The taxable price of the tangible personal property shall be the price at which it is billed to the customer, *not* the price at which it was purchased by the vendor and must include the installation charge unless such charge is separately quoted, both in the contract and on the invoice to the customer.

[¶ 6936]

9. **Speculative Builder.**—When a contractor or other person regularly builds houses for sale and sells with these houses any tangible personal property other than that built into real property, or furniture or other items, he is a vendor of tangible personal property. (See para. 8, for examples of items that are considered as not becoming part of real property and those items considered to be part of real property.)

He must, therefore, apply for a vendor's permit as a speculative builder. He may buy the items of tangible personal property noted

free of tax under purchase exemption certificate and must collect tax from the purchaser of the building on the amount charged to him by the builder for the items of tangible personal property indicated and remit the tax thereon to the province. The charge for the items and the tax thereon must be billed separately to the customer, even if one price is initially quoted for the house and its contents.

The taxable price for these items of tangible personal property must in no case be less than the price paid for them by the speculative builder to his supplier.

A contractor who is a speculative builder may under no circumstances buy materials and other items that become a part of real property free of tax by the issuance of purchase exemption certificates unless he holds a "G" permit because such materials will not be tangible personal property but real property when they are turned over by the speculative builder to his customer.

[¶ 6938]

10. Contractors as Registered Consumers.—A contractor who is not licensed as a vendor but who makes taxable purchases of tangible personal property in excess of \$100 in any two months of a calendar year from outside Ontario must have a "registered consumer certificate" which will permit him to file special returns and remit the tax monthly on such purchases. Such a certificate is not to be deemed to be a vendor's permit and will not enable the contractor to buy tangible personal property within Ontario free of tax by the issuance of purchase exemption certificates. A contractor who is not required to obtain a registered consumer certificate must, nevertheless, report and pay tax on all taxable materials, equipment, etc. purchased tax free from outside the province.

[¶ 6940]

11. Contractors Dealing with Non-Resident Contractors.—The term "non-resident contractor" is defined in Regulation 1(37a) as "a contractor, whether an individual or a corporation, who has not maintained in Ontario continuously for a period of twelve months immediately preceding the signing of any particular contract a permanent establishment as defined in subsections 1 to 7 of *The Corporations Tax Act* in respect of corporations".

When a resident contractor awards a contract to a non-resident contractor as defined above, the resident contractor is required to fulfill certain conditions as outlined in Regulation 21.

This regulation requires any person, acting as a principal or an owner who engages a non-resident contractor to perform work for him in Ontario, to notify the Comptroller of Revenue in writing as to

Special Information for Contractors—continued

the contractor's name and address, the location where the work is performed and the amount to be paid under the contract. The principal or owner may also be required to furnish a copy of the contract and other pertinent information that may be required by the Comptroller or his representative.

Failure to comply with the provisions of Regulation 21(2) will be considered a failure to comply with section 31 of *The Retail Sales Tax Act*.

[¶ 6942]

12. Ready-mix Concrete Operators.—Ready-mix concrete operators are deemed to be construction contractors in respect of this activity and not manufacturers or vendors of tangible personal property. Not being vendors, they should not hold vendors' permits. When they buy trucks, mixing equipment and other tangible personal property with which to mix and pour concrete, they will be required to pay tax to their suppliers on all such equipment as well as on all tangible personal property entering into the concrete mixture that is not exempt under section 5 of the Act. In billing their customers, no tax under *The Retail Sales Tax Act* should appear on the invoice or bill provided.

When a ready-mix concrete operator supplies concrete mixture for the construction of a hospital, nurses' residence, school or university building or for the construction of capital works of a municipality, there is no way for the ready-mix concrete operator to sell the material exempt from tax. The ready-mix concrete operator is a consumer and has paid the tax on the taxable ingredients that went into the mixture.

The ready-mix operator must supply a statement to the organizations exempt under paragraphs 62 and 63 of section 5 of the Act, certifying the quantity and strength of the concrete mixture supplied for the project.

[¶ 6944]

13. Hot and Cold Asphalt Mixers.—Hot and cold asphalt mixers are deemed to be construction contractors in respect of these activities and not manufacturers or vendors of tangible personal property. Not being vendors, they should not hold vendors' permits. When they buy trucks, mixing equipment and other tangible personal property with which to prepare and deliver the hot and cold asphalt mixes, they will be required to pay tax to their suppliers on all such equipment as well as on all tangible personal property entering into the mix that is not exempt under section 5 of the Act. In billing their customers, no tax under *The Retail Sales Tax Act* should appear on the invoice or bill provided.

When a hot and cold asphalt mixer supplies asphalt mix for the construction of a hospital, nurses' residence, school or university building or for the construction of capital works of a municipality, there is no way for the asphalt mixer to sell the material exempt from tax. The asphalt mixer is a consumer and has paid the tax on the taxable ingredients that went into the mixture.

The asphalt mixer must supply a statement to the organizations exempt under paragraphs 62 and 63 of section 5 of the Act, certifying the quantity and strength of the asphalt mix supplied for the project.

[¶ 6946]

14. Exempt Materials.—Certain materials frequently used by contractors are specifically exempt:

1. All fuel.
2. Water.
3. Clay, sand, gravel and unfinished stone, including crushed gravel.
4. Materials purchased to be used as physical ingredients in tangible personal property produced for resale or for use in fulfilling real property contracts as a manufacturer-contractor such as cement used to make ready-mix concrete blocks, sheet metal used to make standard eavestroughs, etc.

NOTE: Gasoline, all fuel oil and other petroleum products used for roads, driveways and similar purposes are taxable under *The Gasoline Tax Act* or *The Motor Vehicle Fuel Tax Act*, and are exempt from tax under *The Retail Sales Tax Act*.

[¶ 6948]

15. Taxable Materials.—The following are among the taxable materials:

1. Lime, except when purchased by a farmer for soil conditioning.
2. All concrete products.
3. Lubricating oils.
4. All building materials (other than those noted in para. 14).

[¶ 6950]

16. Regulation 12(2)

A vendor may not advertise or post or otherwise quote a price "tax included" without specifying separately the amount of the tax.

Special Information for Contractors—continued

[¶ 6952]

17. Ruling 15—Equipment purchased by Public Hospitals,
Psychiatric Hospitals or Sanatoria

The Treasurer defines equipment that is exempt from tax under paragraph 37 of section 5 of *The Retail Sales Tax Act* to be all equipment and supplies purchased in good faith for use exclusively and not for resale by public hospitals, psychiatric hospitals or sanatoria as defined, except those items of equipment and supplies that fall within the following described classifications:

Supplies such as soaps, detergents, floor wax, paper towels and all other supplies and materials that are not used directly in connection with the medical or surgical treatment of patients.

Office and Administrative Equipment and Supplies such as accounting and bookkeeping machines, adding machines, bookcases, calculators, comptometers, data processing equipment, duplicators, filing cabinets, office furniture, safes, stationery supplies, typewriters, and equipment and supplies of a similar nature.

Kitchen and Dietary Equipment such as cutlery, dishes, glassware, kitchen cabinets, kitchen utensils, refrigerators, stoves, trays, and all equipment of a similar nature.

Laundry and Housekeeping Equipment such as brooms, clothes dryers, floor polishers, laundromats, laundry carts, vacuum cleaners, wash tubs, washing machines, and all equipment of a similar nature.

Plant Maintenance Equipment such as electrical tools, ladders, small tools, lathes, saws, and all equipment of a similar nature.

General Equipment such as motor vehicles, lawn mowers, uniforms for staff and all other equipment that is not used directly in connection with the medical or surgical treatment of patients.

Furniture such as carpets, coat racks, lounge furniture and all items of furniture that are to be used in any part of a public hospital that is not a bedroom or a place where patients normally receive medical or surgical treatment.

Recreational Equipment such as ping-pong tables, pool tables, motion picture equipment, games, all television sets and radios, and all equipment of a similar nature.

[¶ 6954]

18. Ruling 16—Instruction to Schools, School Boards, Universities and Suppliers of School Equipment, Furniture and Supplies

Schedule A.—The following items are taxable when purchased for use by anyone including schools, school boards and universities except when eligible for exemption under Schedule B:

- office furniture and equipment
- office supplies
- cafeteria equipment and furniture
- draperies and curtains
- tools and supplies for school building maintenance

Schedule B.—The following items may be purchased free of tax by a school, school board or university when it certifies that they are being purchased for use by the school, school board or university or for use or consumption by students in the exercise of their functions as students and will be provided to the students free of monetary consideration and will not be sold to them:

- all loose-leaf paper including foolscap, art paper, tracing paper, construction paper and bristol board
- appliances and equipment for instructional purposes in schools teaching home economics
- ball point pens
- brushes—paint, mucilage and blackboard
- chalk
- crayons
- desks and chairs for instructional areas
- drawing boards
- duplicating machines and supplies therefor
- erasers
- equipment for organized school sports including uniforms
- ink
- materials and apparatus used in vocational guidance and administering psychological and aptitude tests
- maps and other apparatus used in teaching geography
- motion and still film projectors, tape recorders and record players when used as instructional equipment
- mucilage and paste
- mathematical instruments and rulers
- musical instruments
- office equipment and supplies to be used exclusively for instructional purposes in commercial and business education courses

Special Information for Contractors—continued

pencils and pencil boxes and cases
 pens and pen nibs
 plasticine and modelling clay
 scientific and experimental equipment and supplies including chemicals
 scratch pads
 school room and library furniture
 tools and equipment for instructional purposes in technical schools
 all consumable supplies and materials used in connection with the teaching of manual training, home economics, arts and crafts, music and other technical or academic subjects
 all printed instructional aids
 all equipment and materials used in instructing kindergarten classes

Only a school, school board, or university may purchase items in this schedule free of tax and a vendor may sell such items to a school, school board or university free of tax only when he receives from a duly authorized official thereof a certificate in substantially the following form:

I hereby certify that:

- (a) none of the goods purchased herein will be used as office supplies or as equipment, administrative furniture or tools and supplies for building maintenance; and
- (b) the goods purchased herein will not be sold by the school or university to students or others but will be used or consumed as instructional equipment or supplies or will be given to students for their use or consumption in the exercise of their functions as students.

.....
 (name of school, school board or university)

.....
 (date)

.....
 (signature of authorized official)

Schedule C.—The following items may be purchased free of tax by anyone including students and other persons regardless of where they are purchased:

plain and lined exercise books and scribblers, but not if vertically ruled for bookkeeping or accounting
 lined foolscap in book form
 scrap books
 graph paper in book form
 punched loose-leaf refills (plain or lined, but not if ruled for bookkeeping or accounting)
 drawing books

school bags and satchels
 music manuscript paper
 motion picture films certified to be "educational" by The National
 Film Board (Canada)

[¶ 6956]

19. Ruling 16A—Building Exemptions to Hospitals, Nurses' Residences, Schools and Universities.

(1) Paragraph 62 of section 5 of *The Retail Sales Tax Act* exempts from tax tangible personal property that is purchased by the governing board of a hospital, nurses' residence, school or university whenever a project is undertaken to construct or repair a building or structure on land.

(2) The tangible personal property that may be purchased exempt is any article that will form part of a building or other structure on land. The items may be generally described as building materials and would include normal building equipment such as furnaces, hot-water heaters, air-conditioners, and similar items. This exemption is also extended to include sewage disposal equipment installed in a sewage disposal plant.

(3) A governing board of a hospital, nurses' residence, school or university may purchase the items exempt and a vendor may sell such items to the governing board of a hospital, nurses' residence, school or university free of tax when he receives from its duly authorized official a certificate, in substantially the following form, certifying that the items being purchased are to be incorporated into and form part of a building or other structure on land:

I/We hereby certify that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land.

.....
 (name of organization)

.....
 (date)

.....
 (signature of authorized official)

(4) To obtain the exemption the materials must be:

- (a) delivered to the exempt purchaser;
- (b) paid for by the funds of the exempt purchaser; and
- (c) purchased under the prescribed certificate signed by an authorized official of the exempt purchaser.

(5) Where the governing board of a hospital, nurses' residence, school or university hires a contractor to construct or repair a building or other structure on land, the contractor, normally a consumer and not permitted to purchase anything exempt, may under prescribed

Special Information for Contractors—continued

conditions be permitted to purchase exempt from tax materials that enter into and form part of the building or other structure on land, for that particular contract.

- (6) The prescribed conditions are:
 - (a) the contractor or the subcontractor, as the case may be, must obtain a special permit in order to purchase exempt from tax tangible personal property that will enter into and form part of the capital works of the governing board of a hospital, nurses' residence, school or university;
 - (b) in the application for a special permit the contractor or the subcontractor must give the following information:
 - (i) the contract number,
 - (ii) the name of the governing board of the hospital, nurses' residence, school or university,
 - (iii) the amount of the contract (in the case of the general contractor, the net amount),
 - (iv) the cost of the materials in that contract,
 - (v) the date on which the contract is to begin, and
 - (vi) the date by which the contract is to be completed;
 - (c) in the books and records, the contractor or the subcontractor, as the case may be, must segregate the costs and revenue of the contract mentioned in (b) from the costs and revenues of any other contracts;
 - (d) the contractor or subcontractor, as the case may be, must keep separate from all other invoices the invoices for materials purchased for the contract mentioned in (b); and
 - (e) the contractor or the subcontractor, as the case may be, must issue a purchase exemption certificate, in the following form, to the supplier for all items of tangible personal property that will enter into and form part of capital works of the governing board of a hospital, nurses' residence, school or university:

I/We hereby certify that we have been awarded a contract being No. to construct or repair a building or other structure on land for

.....
(name of governing board)

that we hold a special permit No. and that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land for the above organization.

.....
(signature)

.....
(date)

.....
(name of contractor)

(7) Where the contractor or subcontractor, as the case may be, does not follow the above rules, the Retail Sales Tax Branch may audit and make an assessment of tax on the amount of tangible personal property purchased deemed to be in excess of the requirements for that particular contract and thereafter the contractor or the subcontractor, as the case may be, must submit to the Comptroller such proof as he may require to substantiate that all the materials claimed as purchased for that contract were incorporated into and form part of the building or other structure on land constructed for the governing board of a hospital, nurses' residence, school or university under the terms of that contract.

(8) Where a contractor or subcontractor, as the case may be, has been awarded a contract to construct a building or other structure on land for the governing board of a hospital, nurses' residence, school or university and in the performance of that contract consumes by incorporating into a building or other structure on land for such governing board of a hospital, nurses' residence, school or university tangible personal property, purchased by him prior to that contract date, he may apply for and receive a rebate of the tax paid on the tangible personal property so used.

NOTE : This exemption does not apply to the purchase of tools, free-standing desks, cabinets, rugs, draperies, pole lights, light fixtures, stoves, ranges, heaters, refrigerators, kitchen waste-disposal equipment, window air-conditioners, dish-washers, furniture, office equipment, or any similar items not built into real property.

Venetian blinds, awnings, or any items built to specifications, not transferable to other property, and permanently affixed, will be considered real property.

Rugs permanently affixed to an unfinished surface to form a finished surface are considered real property.

This exemption does not apply to equipment that is used in the process of manufacture or production of tangible personal property for sale. Such exemption is given under paragraph 38 of section 5 of *The Retail Sales Tax Act*.

The above exemption cannot be applied to the purchase of ready-mix concrete or hot or cold asphalt mix.

The tax paid by the ready-mix operator and hot or cold asphalt mixer will be paid to the governing board of a hospital, nurses' residence, school or university by the Retail Sales Tax Branch by way of rebate. To obtain the rebate the governing board of a hospital nurses' residence, school or university must receive a statement from the ready-mix operator or the hot or cold asphalt

Special Information for Contractors—continued

mixer certifying the quantities and strength of the mix supplied and submit this statement to the Retail Sales Tax Branch.

[¶ 6958]

20. Ruling 20(5)—Delivery Charges.

Tax does not apply to transportation charges provided that,

- (a) the sale or purchase is made at an “f.o.b. supply point” price; and
- (b) the amount of freight, express, postage, cartage, and other transportation costs is shown separately on the sales invoice when the freight or other transportation charge is prepaid by the supplier.

Tax does not apply to transportation charges which are paid by the purchaser to a carrier, provided the purchase price is f.o.b. supply point.

When tangible personal property is sold at a retail sale for a delivered price “f.o.b. destination” no deduction may be taken for transportation charges incurred in delivery by the vendor to the carrier even when paid to the carrier by the purchaser and deducted by him from the sales invoice as a “freight allowance”, or incurred by the vendor in the operation of his own delivery facilities. Such transportation costs form part of the “fair value” of the tangible personal property sold to the purchaser and must be included in the laid-down price of the tangible personal property sold.

[¶ 6960]

21. Ruling 21—Building Exemptions to Municipalities and Local Boards.

(1) Paragraph 63 of section 5 of *The Retail Sales Tax Act* exempts from tax tangible personal property that is purchased by a municipality or local board thereof whenever a project is undertaken to construct or repair a building or other structure on land.

(2) The tangible personal property that may be purchased exempt is any article that will form part of a building or other structure on land. The items may be described generally as building materials and would include normal building equipment such as furnaces, hot-water heaters, air-conditioners, and similar items. This exemption is also extended to include sewage disposal equipment installed in a sewage disposal plant.

(3) A municipality or its local board may purchase the items exempt and a vendor may sell such items to a municipality or local board thereof free of tax when he receives from its duly authorized

official a certificate, in substantially the following form, certifying that the items being purchased are to be incorporated into and form part of a building or other structure on land:

I/We hereby certify that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land.

.....
(name of organization)

.....
(date)

.....
(signature of authorized official)

(4) To obtain the exemption the materials must be:

- (a) delivered to the exempt purchaser;
- (b) paid for by the funds of the exempt purchaser; and
- (c) purchased under the prescribed certificate signed by an authorized official of the exempt purchaser.

(5) Where a municipality or its local board hires a contractor to construct or repair a building or other structure on land, the contractor, normally a consumer and not permitted to purchase anything exempt, may under prescribed conditions be permitted to purchase exempt from tax materials that enter into and form part of the building or other structure on land, for that particular contract.

(6) The prescribed conditions are:

- (a) the contractor or the subcontractor, as the case may be, must obtain a special permit in order to purchase exempt from tax tangible personal property that will enter into and form part of the capital works of a municipality or local board thereof;
- (b) in the application for a special permit the contractor or the subcontractor must give the following information:
 - (i) the contract number,
 - (ii) the name of the municipality or the local board thereof,
 - (iii) the amount of the contract (in the case of the general contractor, the net amount),
 - (iv) the cost of the materials in that contract,
 - (v) the date on which the contract is to begin,
 - (vi) the date by which the contract is to be completed.
- (c) in the books and records, the contractor or the subcontractor, as the case may be, must segregate the costs and revenue of the contract mentioned in (b) from the costs and revenues of any other contracts;
- (d) the contractor or subcontractor, as the case may be, must keep separate from all other invoices the invoices for materials purchased for the contract mentioned in (b); and

Special Information for Contractors—continued

- (e) the contractor or the subcontractor, as the case may be, must issue a purchase exemption certificate in the following form to the supplier for all items of tangible personal property that will enter into and form part of the capital works of the municipality or local board thereof:

I/We hereby certify that we have been awarded a contract being No. to construct or repair a building or other structure on land for

.....,
(name of municipality)

that we hold a special permit No. and that the tangible personal property purchased herein is to be incorporated into and form part of a building or other structure on land for the above organization.

.....
(signature)

.....
(date)

.....
(name of contractor)

(7) Where the contractor or subcontractor, as the case may be, does not follow the above rules, the Retail Sales Tax Branch may audit and make an assessment of tax on the amount of tangible personal property purchased deemed to be in excess of the requirements for that particular contract and thereafter the contractor or the subcontractor, as the case may be, must submit to the Comptroller such proof as he may require to substantiate that all the materials claimed as purchased for that contract were incorporated into and form part of the building or other structure on land constructed for the municipality or local board thereof under the terms of that contract.

(8) Where a contractor or subcontractor, as the case may be, has been awarded a contract to construct or repair a building or other structure on land for a municipality or local board thereof and in the performance of that contract consumes by incorporating into a building or other structure on land for such municipality or local board thereof tangible personal property, purchased by him prior to that contract date, he may apply for and receive a rebate of the tax paid on the tangible personal property so used.

NOTE : This exemption does not apply to the purchase of tools, free-standing desks, cabinets, rugs, draperies, pole lights, light fixtures, stoves, ranges, heaters, refrigerators, kitchen waste-disposal equipment, window air-conditioners, dish-washers, furniture, office equipment, or any similar items not built into real property.

Venetian blinds, awnings, or any items built to specifications, not transferable to other property, and permanently affixed, will be considered real property.

Rugs permanently affixed to an unfinished surface to form a finished surface are considered real property.

This exemption does not apply to equipment that is used in the process of manufacture or production of tangible personal property for sale. Such exemption is given under paragraph 38 of section 5 of *The Retail Sales Tax Act*.

The above exemption cannot be applied to the purchase of ready-mix concrete or hot or cold asphalt mix.

The tax paid by the ready-mix operator and hot or cold asphalt mixer will be paid to the municipality or local board thereof by the Retail Sales Tax Branch by way of rebate. To obtain the rebate the municipality or local board thereof must receive a statement from the ready-mix operator or the hot or cold asphalt mixer certifying the quantities and strength of the mix supplied and submit this statement to the Retail Sales Tax Branch.

22. The following items remain tangible personal property or become part of real property as listed. This is a partial list and other items may be classified accordingly:

Material	Remains Tangible Personal Property	Becomes part of Real Property	Remarks
Conduit—for underground wires		X	
Consumable material, tools, clothing, etc.	X		
Elevators—normally passenger and freight		X	
Fencing—permanent type		X	
—temporary (snow fence or other collapsible or removable fences or screens)	X		
Fire alarms or bells in buildings		X	
Painting—on new construction		X	
—on repairs and maintenance ..	X		
Water purifiers—water processing equip- ment	X		See section 5(38) of the Act
Chemicals added to water	X		See section 5(40) of the Act
Refrigeration plants for arenas	X		
Artificial ice systems except plant		X	(e.g. pipes, floor, etc.)
Sidewalks		X	
Street signs	X		
Street standards (if separate from sign)		X	
Sewage treatment equipment	X		Exempt under Ruling 21 effec- tive June 1, 1964
Sewage treatment chemicals	X		Taxable
Water hydrants		X	
Water towers		X	
Underground water pipes and sewers		X	
Parking meters	X		
Utility poles and street light poles		X	

Special Information for Contractors—continued

Material	Remains Tangible Personal Property	Becomes part of Real Property	Remarks
Street lighting apparatus	X		
Street and road guard rails		X	
Bridges		X	
Park fixtures—fountains, monuments, etc., permanently mounted		X	
Draperies	X		
Park benches (movable)	X		
Water meters in homes	X		
Sprinkler system in buildings		X	
Window air-conditioners	X		
Removable partitions	X		
Fire hose and outside fire alarms	X		
Heating and cooling systems built in		X	
Normal lighting systems in buildings		X	
TV aerials once installed		X	
Incinerators—in buildings		X	
—portable	X		
Permanent-type playground fixtures		X	
Landscape contracts		X	
Centre line and street markings— new streets		X	
repainting			not allowable
Surface drainage for roads (culverts, etc.)		X	
Signal systems	X		

Municipalities or schools are not permitted to purchase maintenance items, etc., free from tax under Ruling 16A or Ruling 21. Only those items which become part of real property, such as lighting fixtures in buildings, replacement doors, plumbing, heating, etc., are allowable under Rulings 16A and 21.

Rentals of equipment by contractors, regardless of use, are subject to tax and never become part of real property. Form lumber normally never becomes part of real property and is subject to tax in the hands of the contractor. Where form lumber is used and becomes part of the building, it would qualify for exemption in Ruling 16A and Ruling 21.

DISTRICT OFFICE DIRECTORY

PORT ARTHUR—229 Pearl St.
 SUDBURY—102 Durham St. South
 NORTH BAY—649 Cassells St.
 ORILLIA—26 Colborne St.
 OTTAWA—Hampton Park Plaza,
 Kirkwood and Carling Aves.
 BELLEVILLE—133 Dundas St. East

HAMILTON—361 King St. West
 KITCHENER—824 King St. West,
 4th Floor
 WELLAND—549 Niagara St. North
 LONDON—1472 Dundas St. East
 WINDSOR—374 Ouellette Ave.
 TORONTO—40 Eglinton Ave. East

ONTARIO

THE HOSPITALS TAX ACT

(Chapter 178, R.S.O. 1960, as amended)

[§ 7001]

Sec. 1. Interpretation.—In this Act,

- (a) “admission” includes entry to a place of amusement or place of entertainment where any charge is made or fee is collected before or after entry;
- (b) “Comptroller” means the Comptroller of Revenue;
- (c) “entertainment by one or more paid performers”, if facilities for dancing are not provided, means entertainment of any kind, except music produced by means of a musical instrument other than the human voice, and except entertainment produced by mechanical or electronic means;
- (d) “facilities for dancing” means a cleared dance floor when music for dancing is provided by any means;
- (e) “owner” means a person who operates a place of amusement or a place of entertainment, or both;
- (f) “place of amusement” means a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side-show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance is staged or held, and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise;
- (g) “place of entertainment” means a premises or place, whether enclosed or not,
 - (i) where facilities for dancing are provided with the service of liquor, beer or wine, or
 - (ii) where entertainment by one or more paid performers is provided with the service of food or the service of liquor, beer or wine,but no premises or place shall be deemed to be a place of entertainment on any day until facilities for dancing are provided or entertainment by one or more paid performers is provided and, thereafter, such premises or place is a place of entertainment until closed;
- (h) “price of admission” includes every charge made to or fee collected from a purchaser by an owner before or after admis-

Sec. 1—continued

sion to a place of amusement or place of entertainment and includes, when it is for admission to a place of entertainment, every cover charge and every charge for the service of food or the service of liquor, beer or wine;

- (i) “purchaser” means a person who purchases admission for himself to a place of amusement or place of entertainment, and includes a person for whom admission to a place of amusement or place of entertainment is purchased by any other person;
- (j) “regulations” means the regulations made under this Act;
- (k) “service of liquor, beer or wine” means the service of liquor, beer or wine to a purchaser in a place from which, in order to use facilities for dancing or to view entertainment by one or more paid performers, he is not required to pass through a doorway or through more than one doorway;
- (l) “service of food” means the service of food or beverages, other than liquor, beer or wine, to the purchaser at a table in a place from which, in order to view entertainment by one or more paid performers, he is not required to pass through a doorway or through more than one doorway;
- (m) “Treasurer” means the Treasurer of Ontario.

[¶ 7005]

Sec. 2. Licences.—(1) No owner shall sell admission to a place of amusement or place of entertainment unless a licence therefor has been, upon his application, issued to him under this Act, and unless the licence is in force at the time of sale.

[¶ 7007]

(2) *Expiry.*—The licence remains in force until the 31st day of March next following the date of issue.

[¶ 7010]

(3) *Application.*—The application for the licence shall be filed with the Comptroller.

[¶ 7015]

(4) *Granting of licences.*—Subject to clause *a* of subsection 6, the licence shall be granted by the Comptroller upon payment of \$1 by the owner to the Treasurer for the use of Her Majesty in right of Ontario.

[¶ 7020]

(5) *Posting up of licences.*—The licence shall be placed in public view in the office of the owner at which admission is sold to the purchaser.

[¶ 7025]

(6) *Refusal or cancellation of licences.*—The Comptroller may,

(a) refuse to issue a licence to any owner; or

(b) suspend or cancel the licence of any owner if such owner or any of his employees contravenes any of the provisions of this Act,

but, before a refusal, suspension or cancellation is made, the owner shall be afforded an opportunity to appear before the Comptroller to show cause why the issuance of a licence should not be refused or why the licence should not be suspended or cancelled, as the case may be.

[¶ 7030]

(7) *Information.*—The application for a licence shall contain the name and address of the owner, and where the owner is a partnership, the name and address of each partner, and where the owner is a corporation, club, association or syndicate, the name and address of the president, if he resides in Ontario, or if not, the name and address of its resident manager or representative, and the address of its chief place of business in Ontario.

[¶ 7035]

Sec. 3. Tax on admission to places of amusement.—(1) A purchaser of admission to a place of amusement shall pay to the Treasurer for the use of Her Majesty in right of Ontario a tax on the price of admission as follows:

Price of Admission						Tax	
						¢	¢
More than		75	and not more than			84	— 6
"	"	84	"	"	"	90	— 7
"	"	90	"	"	"	92	— 8

and, where the price of admission is more than 92 cents, a tax at the rate of 10 per cent calculated upon the price of admission, and in the calculation every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as 1 cent. (1964, c. 104, s. 1(1).)

[¶ 7040]

(2) *Exception.*—(*Repealed by 1964, c. 104, s. 1(2).*)

[¶ 7045]

(3) *Tax on admission to places of entertainment.*—A purchaser of admission to a place of entertainment shall pay to the Treasurer for the use of Her Majesty in right of Ontario,

Sec. 3—continued

(a) a tax at the rate of 10 per cent calculated upon the price of admission where such price is less than \$10; and

(b) a tax of \$1 where such price is \$10 or more,

and in the calculation under clause *a*, every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as 1 cent.

(1964, c. 104, s. 1.)

[¶ 7050]

Sec. 4. Collection.—(1) An owner shall, as the agent of the Treasurer, collect the tax imposed by this Act.

[¶ 7055]

(2) *Arrangements for collection.*—For the purpose of collecting the tax, the Treasurer may enter into such arrangement with each owner as he deems expedient and may provide for the payment of such remuneration to each owner as he deems proper.

[¶ 7060]

(3) *Trust moneys.*—An owner shall be deemed to hold all amounts collected under this Act in trust for Her Majesty.

[¶ 7065]

(4) *Idem.*—All amounts collected by an owner under this Act shall be kept separate and apart from his own moneys.

[¶ 7070]

(5) *Surety bond.*—The Treasurer may require any owner to furnish a surety bond on such terms and conditions and in such amount as the Treasurer deems appropriate.

[¶ 7075]

Sec. 5. Price of admission and tax.—(1) An owner shall inform every purchaser of admission of the price or prices of admission to his place of amusement or place of entertainment and of the amount of tax to be paid by the purchaser by placing in public view at the office of the owner where admission may be purchased a schedule showing such price or prices and the amount of such tax.

[¶ 7080]

(2) *Receipt for tax.*—For the purposes of subsection 3 of section 3, an owner shall collect the tax on each part of the price of admission and shall give each purchaser a receipt for each such part so that each purchaser may know when he has paid the maximum tax.

[¶ 7085]

Sec. 6. Sale invoices.—An owner shall, upon the request of the purchaser, deliver to him a writing showing his name, his address, the number of his licence issued under this Act, the price of admission charged to the purchaser, and separately stated, the amount of the tax payable or paid by the purchaser.

[¶ 7090]

Sec. 7. Absorption of tax prohibited.—No owner shall advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed under this Act will be assumed or absorbed by the owner or that it will not be considered as an element in the price to the purchaser or, if added, that it or any part thereof will be refunded.

[¶ 7095]

Sec. 8. Special circumstances.—(1) Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant Governor in Council may, upon application of the owner made to the Treasurer at least ten days before the tax would otherwise be payable, exempt the purchaser from payment and the owner from collection of the tax imposed under this Act.

[¶ 7100]

(2) *Idem.*—Where it is shown to the satisfaction of the Treasurer that the tax calculated on the price of admission to a place of amusement or place of entertainment at or in which an entertainment has been held for the purpose of raising funds for religious, charitable or educational purposes, was collected and paid to the Treasurer in accordance with this Act, and where the owner files with the Comptroller a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Treasurer is satisfied that the organization is one the operations of which are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, the Treasurer may pay to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the owner as the price of admission to such place of amusement or place of entertainment.

[¶ 7105]

(3) *Canadian performances.*—Where application of the owner is made to the Treasurer at least ten days before the tax would otherwise be payable and the Treasurer is satisfied that the performers in

Sec. 8—continued

a theatrical or musical performance in a place of amusement are residents of Canada performing under the management of a person resident in Canada and that the performance will not be presented with the showing of a motion picture or with a carnival, circus, side-show, menagerie, rodeo, exhibition, horse race, athletic contest or other performance, the Treasurer may, in his absolute discretion, exempt the purchaser from the payment and the owner from the collection of the tax imposed under this Act.

[¶ 7110]

Sec. 9. Returns.—(1) An owner shall, as agent of the Treasurer,
(a) on or before the tenth day of each month, without notice or demand; or

(b) on or before the day designated in the demand of the Comptroller served on the owner by hand or by registered mail, deliver to the Comptroller such return as is required for the purpose of carrying out this Act.

[¶ 7115]

(2) *Verification of returns.*—The return shall be verified by the certificate of the owner, and, if the owner is not an individual, of his president or his resident manager or representative in Ontario, certifying that the financial statements for the preceding month, attached to the return, showing the receipts of the place of amusement or place of entertainment the amount of the tax collectable under this Act and such other information as is required, are in agreement with the books of the owner and exhibit truly and correctly all the business of the owner at his place of amusement or place of entertainment during the preceding month.

[¶ 7120]

Sec. 10. Fine for sale of admission unless licensed.—(1) Every owner who contravenes subsection 1 of section 2 is guilty of an offence and on summary conviction is liable to a fine for each sale of not less than \$10 and not more than \$1,000.

[¶ 7125]

(2) *Fine for failure to pay.*—Every purchaser who fails to pay the tax imposed under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$200.

[¶ 7130]

(3) *Fine for failure to collect tax.*—Every owner who refuses or neglects to collect, account for or remit the amount of the tax in accordance with this Act or the regulations is guilty of an offence and on summary conviction is liable, in addition to the remittance of the tax, to a fine for each day during which such offence continues, of not less than \$10 and not more than \$1,000.

[¶ 7135]

(4) *Penalty for failure to deliver return.*—Every owner who fails to deliver a return as and when required by subsection 1 of section 9 shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was collectable by him for the period covered by the return, if the amount of such tax was less than \$10,000; and
- (b) \$500, if the amount of such tax was \$10,000 or more.

[¶ 7140]

(5) *Fine for failure to complete return.*—Every owner who fails to complete the information required in the return to be delivered to the Comptroller under subsection 1 of section 9 shall pay a penalty of 1 per cent of the tax collectable by him, but in no case shall such fine be less than \$1 or more than \$20. (1964, c. 104, s. 2.)

[¶ 7145]

(6) *Fine for failure of employee to collect tax.*—Every employee of an owner who permits or authorizes or is a party or privy to the admission of a purchaser to a place of amusement or place of entertainment without collecting from the purchaser the tax imposed under this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$500.

[¶ 7150]

(7) *Fine for failure to keep moneys apart.*—Every owner who contravenes subsection 4 of section 4 is guilty of an offence and on summary conviction is liable, in addition to the remittance of the tax collectable, to a fine equal to double the amount of the moneys collected and not kept separate and apart from his own moneys and in default of payment, to imprisonment for a term of three months.

[¶ 7155]

(8) *Injunction.*—In addition to the penalties provided by this Act, the Treasurer may apply to a judge of the Supreme Court for an injunction against any owner who sells admission to his place of amusement or place of entertainment without having a subsisting licence under this Act ordering him to cease selling such admission and to close his place of amusement or place of entertainment until a licence is granted and all costs are paid.

(1964, c. 104, s. 2.)

[¶ 7160]

Sec. 11. Time for making return.—The Treasurer may enlarge the time for making any return before or after the time for making it.

[¶ 7165]

Sec. 12. Remittance of tax.—(1) An owner shall remit with the return required by subsection 1 of section 9, the amount of the tax collectable by him as shown therein.

[¶ 7170]

(2) *Deficiency in amount remitted.*—When an owner remits less than the amount of the tax collectable as shown by the return, he shall pay interest at the rate of 7 per cent per annum upon the deficiency calculated from the date of default until the date of remission to the Treasurer.

[¶ 7175]

Sec. 13. Demand for additional information.—(1) If the Comptroller, in order for him to make an accounting of the tax collectable by the owner under this Act or for any other purpose, desires any information or additional information, or a return from an owner who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the owner or from the president, manager, secretary, or any director, agent or representative thereof, such information, additional information or return, and the owner, president, manager, secretary, or any director, agent or representative upon whom the demand is made shall deliver to the Comptroller the information, additional information or return within the time specified in the registered letter.

[¶ 7180]

(2) *Production of letters, accounts, etc.*—The Comptroller may, by registered letter, require the production under oath or otherwise, by any owner or the president, manager, secretary, or any director, agent or representative of such owner, or by any person, partnership, syndicate, trust or company holding or paying or liable to pay any portion of the income of such owner, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents.

[¶ 7185]

(3) *Books of account to be kept.*—If an owner fails or refuses to keep adequate books or accounts for the purpose of ascertaining the amount of the tax collectable by him under this Act, the Comptroller may require the owner to keep such records and accounts as he prescribes.

[¶ 7190]

(4) *Penalty.*—For a default in complying with any requirement of subsections 1 to 3, the owner or the persons, or both, in default are jointly and severally liable to a penalty of \$25 for each day during which the default continues.

[¶ 7195]

(5) *Compliance of Treasurer or Comptroller, etc., to be proved by affidavit.*—For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Treasurer or of the Comptroller with this section, as well as the failure of any owner or person to comply with the requirements of this section, are sufficiently proven in any court by affidavit of the Treasurer or of any officer of the Treasury Department.

[¶ 7200]

(6) *Inquiry as to amount of tax collectable.*—Any officer authorized by the Treasurer may make such inquiry as he deems necessary to ascertain the amount of any tax collectable by an owner under this Act, and for the purposes of such inquiry, such officer has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*.

[¶ 7205]

(7) *Treasurer or Comptroller not bound by return.*—No return or information supplied by or on behalf of any owner is binding upon the Treasurer or the Comptroller, and notwithstanding any such return or information, or in the absence of any return or information, the Comptroller may determine the amount of the tax collectable by any owner.

[¶ 7210]

(8) *Notice of accounting.*—After examination of the return of the owner, the Comptroller shall send a notice of accounting to the owner verifying or altering the amount of tax shown to be collectable by the owner in his return, and any additional tax found to be collectable over the amount shown in the return shall be remitted within one month from the date of mailing of the notice of accounting, and subject to section 12, such additional tax shall bear interest at the rate of four per cent per annum calculated from the last date prescribed for making the return to the date of remission to the Treasurer.

[¶ 7215]

(9) *Penalty for non-remittance of additional taxes.*—If an owner fails to remit the additional tax and interest within one month after the date of the mailing of the notice of accounting, the owner shall pay, in addition to the interest provided by subsection 8, interest at the rate of 3 per cent per annum upon the additional tax from the expiry of the period of one month after the date of the mailing of the notice of accounting to the date of remission to the Treasurer.

[¶ 7220]

Sec. 14. Refunds of over-payments.—(1) The Treasurer may refund before or after the issue of the notice of accounting any amount that the owner has remitted in excess of the taxes collectable or of the

Sec. 14—continued

interest or penalties payable by him, if application in writing is made therefor by the owner within six months of the date of remission of the tax or the date on which the notice of accounting was issued.

[¶ 7225]

(2) *Idem.*—Any refund under this section may be paid with interest at the rate of 3 per cent per annum calculated upon the amount by which the tax remitted exceeds the amount of tax collectable as determined in the notice of accounting, but in no case shall interest be paid where the refund of tax is less than \$50.

[¶ 7230]

Sec. 15. Continuance of liability.—Notwithstanding any prior accounting or where no accounting has been made, the owner continues to be liable for any tax that is collectable and that has not been remitted to him under this Act.

[¶ 7235]

Sec. 16. Recovery of tax or penalty.—Upon default of remission by an owner of any tax collectable by him or any penalty payable by him under this Act,

- (a) the Treasurer may bring an action for recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury; or
- (b) the Treasurer may issue a warrant and direct it to the sheriff of a county or district in which any property of the owner is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the owner, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court; or
- (c) the Treasurer or any officer authorized by him may enter upon the premises of the owner or any other place in Ontario where the books or records of the owner or any part of them are kept and make such investigation and examination as he deems necessary, and may seize any of the books and records and may, by notice in writing, require any person who is indebted to the owner to pay the debt to the Treasurer.

[¶ 7240]

Sec. 17. Manner of serving notice.—(1) A notice under clause c of section 16 may be served personally or by registered mail addressed

to such person at the address indicated in the books or records of the owner, and the receipt of payment of the amount of the indebtedness by the Treasurer constitutes a good and sufficient discharge of the liability of such person to the owner to the extent of the amount indicated in the receipt.

[¶ 7245]

(2) *Liability of debtor.*—A person discharging any liability to an owner owing taxes collectable by him or penalties payable by him, or both, under this Act after the service of the notice referred to in subsection 1 is personally liable to the Treasurer to the extent of the amount of the liability discharged between the person and the owner or to the extent of the amount of taxes collectable by the owner, or interest and penalties payable by him, or both, owing under this Act, whichever is the lesser amount, and the Treasurer has the same remedies for the recovery of such amount from such person as he has for the recovery from the owner of a tax collectable or penalty payable by him under this Act.

[¶ 7250]

Sec. 18. Priority of tax.—Every tax collectable and every penalty payable by an owner under this Act is a first lien and charge upon his property in Ontario.

[¶ 7255]

Sec. 19. Declarations or affidavits.—Declarations or affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor.

[¶ 7260]

Sec. 20. Information to be secret.—(1) Subject to subsection 1a, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. (1964, c. 104, s. 3.)

[¶ 7265]

(1a) *Communication of information to other jurisdictions.*—The Treasurer may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

Sec. 20—continued

to any person employed by the Government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Treasurer, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. (1964, c. 104, s. 3.)

[¶ 7270]

(2) *Offence*.—Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

(1964, c. 104, s. 3.)

[¶ 7275]

Sec. 21. Remedies for recovery of tax and penalties.—The use of any remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise.

[¶ 7280]

Sec. 22. Information or complaint within 3 years.—An information with respect to a contravention of this Act or the regulations may be laid or made within three years from the time when the matter of the information arose.

[¶ 7285]

Sec. 23. Disposition of fines.—The fines imposed for offences under this Act are payable to the Treasurer.

[¶ 7290]

Sec. 24. General penalty.—A person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

[¶ 7295]

Sec. 25. Regulations.—The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;

- (b) providing for the collection of the tax imposed under this Act by the issuance of tickets wherever it is deemed advisable;
- (c) providing for the exemption of the purchaser from the payment and the owner from the collection of the tax that would otherwise be payable and collectable under this Act where the Treasurer, in his absolute discretion, determines that the entertainment given, amusement provided or game played is for religious, charitable or educational purposes;
- (d) designating municipalities for the purposes of subsection 2 of section 3;
- (e) respecting any matter necessary or advisable to carry out effectively the purpose of this Act.

ONTARIO

AMUSEMENT TAX REGULATIONS

(O. Reg. 240, R.R.O. 1960 as amended)

[¶ 7301]

Exemptions

1. (1) The purchaser is exempt from the payment and the owner from the collection of the tax that would otherwise be payable and collectable under this Act where the Treasurer, in his absolute discretion, determines that,

- (a) any performance, exhibition or contest held, staged or operated by any religious, charitable, agricultural or educational institution, a board of trade or chamber of commerce, a labour organization or society, a benevolent or fraternal beneficial society or order, a club, a society or an association organized for social welfare, civic improvement or recreation or for patriotic or other non-profitable purposes, operated exclusively as such, no part of the revenue of which inures to the benefit or private gain of any person as proprietor or member thereof or shareholder therein, or to the person or persons organizing, promoting or managing such performance, exhibition or contest;
- (b) any entertainment given, amusement provided or game played,
 - (i) in a church or church premises or premises affiliated with religious bodies or any university, college, collegiate or school premises, where an amount not less than 60 per cent of the net proceeds from the entertainment, amusement or game is to be devoted to religious, charitable or educational purposes, or
 - (ii) in a community hall or athletic field for which aid is or has been granted under *The Community Centres Act*;
- (c) any entertainment given, amusement provided or game played or any exhibition or contest of skill or speed or like contest held by or under the auspices of,—
 - (i) a society as defined in *The Agricultural Societies Act*, or
 - (ii) an association, society or organization named in section 2 or 19 of *The Agricultural Associations Act*;
- (d) any exhibition held by the Canadian National Exhibition Association, the Central Canada Exhibition Association, the Western Fair Association, the Royal Agricultural Winter Fair Association of Canada, or the Ottawa Winter Fair;

- (e) any entertainment provided in front of the grandstand of any of the associations or fairs named in clause *d* during the exhibition period of the association or fair; or
- (f) any exhibition or contest of skill or speed or like contests where it is an amateur athletic event,

is an entertainment given, amusement provided or game played for religious, charitable or educational purposes.

[¶ 7305]

(2) [*Amateur defined*].—In subregulation 1,—

- (a) “amateur,” when used with respect to a natural person, means a person who has not at any time,—
 - (i) entered or competed in any athletic contest or exhibition for a staked bet, private or public moneys or gate receipts, or received any consideration for his services as an athlete except reasonable travelling and living expenses actually incurred while going to, remaining at and returning from the place of contest or exhibition;
 - (ii) taught, pursued or assisted in the pursuit of any athletics as a means of livelihood;
 - (iii) sold or pledged his prizes; or
 - (iv) promoted or managed an athletic contest or exhibition for personal gain; and
- (b) “amateur,” when used with respect to an athletic association, club, corporation, league or any unincorporated organization, means that the association, club, corporation, league or unincorporated organization is, or is ordinarily recognized as being, composed of amateurs.

ONTARIO

AMUSEMENTS TAX RULINGS

[¶ 7351]

Rules Respecting Amateur Standing Under The Hospitals Tax Act.—The following rulings are made and shall be deemed to be effective with respect to games played as from the commencement of the playing season of the sport of ice-hockey in progress on October 1, 1959 and for playing seasons of such sport that commence after that date:

[¶ 7355]

1. [Maximum remuneration].—All taxes collectable under *The Hospitals Tax Act* that would be payable for admission to games played by professional teams shall be collected and remitted to the Treasurer of Ontario in accordance with the provisions of *The Hospitals Tax Act* in the case of every game where the amount of any remuneration paid or payable to any player on either team as consideration for participating in one game exceeds \$30.

[¶ 7360]

2. [Application for refund].—(1) At the end of the playing season of the particular sport involved, application may be made for a payment by the Treasurer to the organization sponsoring the team of an amount equal to the tax collected and remitted in any case where the team meets the conditions of having played on an “amateur” basis as set out in Ruling 3.

[¶ 7365]

(2) [Documents].—The application referred to in sub-ruling 1 shall be supported by the following documents:

- (a) a copy of the contract made with each player who participates or may participate in any game, certified by the organization sponsoring the team to be a true copy;
- (b) complete financial statements duly audited and certified to be true and correct by recognized and qualified auditors, setting out the assets and liabilities of the organization sponsoring the team as at the close of the fiscal year of the organization sponsoring the team during which the playing season ends, and the income and expenditures of such organization for that fiscal year;
- (c) statements setting out in detail all amounts paid or payable to each contracted or other player on the team for the playing season whether as direct payments for salaries, wages, bonuses, travelling allowances, travelling expenses, medical expenses and for any other expense or in the form of merchandise vouchers,

awards of merchandise or other valuable consideration during the fiscal year of the organization sponsoring the team in which the playing season ends;

- (d) a schedule setting out any other information required by the Office of the Comptroller of Revenue deemed necessary to establish whether or not a team is composed of amateurs in accordance with Ruling 3;
- (e) an affidavit made by a qualified officer of the organization sponsoring the team that the information submitted in the documents referred to in this Ruling is true and correct in all respects and that the value of all direct payments to players and all other items of valuable consideration as detailed in the statements required by clause (c) have been fully disclosed and set out in the financial statements required by clause (b).

[¶ 7370]

(3) No payment shall be made under this Ruling to the organization sponsoring a team in any case where the application referred to in sub-ruling 1 is made later than the last day of the month that ends six months following the close of the fiscal year of the organization sponsoring the team.

[¶ 7375]

3. [Determination of amateur standing].—(1) A team shall be deemed to be composed of amateur players when at all games played during the playing season all the players on the team have been contracted players and when the total remuneration payable to such players during the playing season does not exceed the sum of the amount resulting from multiplying \$30.55 by the number of man-games played by the team during the playing season and, as compensation for a practice period, the amount resulting from multiplying \$30.55 by twice the weekly average man-games played during the period of the league schedule.

[¶ 7380]

(2) In this Ruling,

- (a) “contracted player” means a player who plays on a team pursuant to a contract he has made with the organization sponsoring the team and such contract sets out the consideration for which such player undertakes to participate in games played by the team and is signed and sealed by the player and an authorized officer of such organization;
- (b) “number of man-games” means the number of contracted players on a team who are dressed to participate in one game whether or not any such player actually participates in that game;
- (c) “playing season” means the period commencing on the Sunday of the week in which the first league schedule game is played and ending on the Saturday of the week in which the last league

Rule 3—continued

schedule game is played or, in the case of a team that becomes entitled to participate in play-off games, ending on the Saturday of the week in which that team is last entitled to participate in play-off games;

- (d) "league schedule" means the schedule of games established by the league for play prior to the commencement of the playing season;
- (e) "the period of the league schedule" means the period commencing with the Sunday of the week during which the first league schedule game is played and ending with the Saturday of the week during which the last league schedule game is played;
- (f) "total remuneration payable" shall include every amount paid or payable by a team or its sponsors to or on behalf of any player on such team pursuant to the terms of the contract which each player has made with the organization sponsoring the team whether such amount is paid or payable as a bonus for signing the contract to play on the team or as an amount in connection with each game or as a settlement at the end of the season, and in no case shall the total remuneration payable referred to in sub-ruling 1 be less than the amount of the remuneration a contracted player is entitled to receive pursuant to all terms of the contract such player has made with the organization sponsoring the team.

[¶ 7385]

(3) The term "total remuneration payable" in sub-ruling 1 shall not include,

- (a) expenses actually paid by a player or on his behalf by his team or its sponsors to other persons where such expenses are supported by vouchers to prove such payment, incurred in travelling to, from or at any game or practice game, but except as herein provided no "travelling allowances" shall be excluded when measuring the "total remuneration payable," and
- (b) medical, dental and hospital expenses actually paid by any player or by his team or its sponsors on his behalf supported by vouchers to prove such payments, incurred as a result of the injury of such player on a team suffered in preparation for or during the playing of any game.

[¶ 7390]

(4) The term "expenses" used in clause (a) of sub-ruling 3 may include not more than ten cents per mile for transportation of a player by motor car if no other mode of transportation is used by the player but if more than one player is transported by one motor car the maximum allowance will be ten cents per mile for one player and not for any other players transported with the driver.

ONTARIO

THE TOBACCO TAX ACT, 1965

(Chapter 130, S.O. 1965)

Note: A summary of the 1966 amendments with applicable dates will be found at page v. CCH.

[¶ 7401]

Sec. 1. Interpretation.—In this Act,

- (a) “Comptroller” means the Comptroller of Revenue;
- (b) “consumer” means any person who,
 - (i) in Ontario, purchases or receives delivery of tobacco, or
 - (ii) in the case of a person ordinarily resident in Ontario or carrying on business in Ontario, brings into Ontario tobacco acquired outside Ontario,
for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as the agent for, a principal who desires to acquire the tobacco for use or consumption by him or other persons at his expense, but does not include a dealer;
- (c) “dealer” means any person who in Ontario sells tobacco or offers or keeps tobacco for sale, either at wholesale or at retail;
- (d) “package” includes a box, tin or other container in which tobacco is sold at retail;
- (e) “regulations” means the regulations made under this Act;
- (f) “retail dealer” means any person who sells tobacco to a consumer;
- (g) “retail sale” means a sale to a consumer;
- (h) “tobacco” means tobacco in any form in which it is used or consumed, and includes snuff;
- (i) “Treasurer” means the Treasurer of Ontario;
- (j) “wholesale dealer” means any person who sells in Ontario tobacco for the purpose of resale.

[¶ 7405]

Sec. 2. Tax on consumer.—(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed at the rate of,

- (a) one-tenth of 1 cent on every cigarette purchased by him;
- (b) one-fifth of 1 cent for every 5 cents or part thereof of the price at retail of every cigar purchased by him;
- (c) 1 cent per ounce or part thereof of any tobacco, other than cigarettes or cigars, purchased by him at a price of less than 50 cents a package;

Sec. 2—continued

(d) 1 cent per ounce or part thereof of any tobacco, other than cigarettes or cigars, that is packaged in quantities of two ounces or more and purchased by him at a price of less than 25 cents per ounce;

(e) 2 cents per ounce or part thereof of any tobacco, other than cigarettes or cigars, purchased by him at a price of 50 cents or more a package.

(1966, *Bill No. 71*, s. 1.)

[¶ 7410]

(2) *Collection of tax.*—The tax imposed by this Act shall be collected from the consumer by the retail dealer as agent of the Treasurer at the time of the sale to the consumer and shall be remitted by the retail dealer to the Treasurer at the time and in the manner prescribed by the regulations.

[¶ 7415]

(3) *M.L.A.s not disqualified.*—No person acting as agent under subsection 2 shall thereby be made ineligible as a member of the Assembly.

(1966, *Bill No. 71*, s. 1.)

[¶ 7415]

Sec. 3. Wholesale dealer's permit.—(1) No person shall sell tobacco in Ontario for resale unless he holds a subsisting wholesale dealer's permit issued to him under this Act.

[¶ 7420]

(2) *Retail vendor's permit required.*—No person shall sell tobacco in Ontario to a consumer unless such person holds a subsisting vendor's permit issued to him under *The Retail Sales Tax Act, 1960-61*.

[¶ 7425]

(3) *Sale to retail vendor.*—No wholesale dealer shall sell tobacco in Ontario to a person who does not hold a subsisting vendor's permit issued to him under *The Retail Sales Tax Act, 1960-61*.

[¶ 7430]

Sec. 4. Suspension or cancellation of wholesale dealer's permit.—The Comptroller may suspend or cancel the permit of any wholesale dealer who,

(a) refuses or neglects to account for and pay as herein required moneys received by him as proceeds of the tax;

(b) refuses or neglects to furnish a surety bond when so required under the regulations,

but, before a refusal, suspension or cancellation is made, the wholesale dealer shall be afforded an opportunity to appear before the Comptroller to show cause why the issuance of a permit should not be refused or why the permit should be not suspended or cancelled, as the case may be.

[¶ 7435]

Sec. 5. Tobacco brought into or received in Ontario.—Every person ordinarily resident in Ontario or carrying on business in Ontario who brings into Ontario or who receives delivery in Ontario of tobacco acquired for value by him for his own consumption or use or for the consumption or use by other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such tobacco for the consumption or use by such principal or other persons at his expense, shall immediately report the matter in writing to the Comptroller and shall supply the Comptroller with the invoice and all other pertinent information required from him by the Comptroller in respect of the consumption or use of such tobacco, and shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such tobacco as would have been payable if the tobacco had been purchased in Ontario.

[¶ 7440]

Sec. 6. Absorption of tax.—No retail dealer shall advertise or hold out or state to the public or to any consumer directly or indirectly that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retail dealer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded.

[¶ 7445]

Sec. 7. Tax moneys are trust moneys.—(1) Every person who collects any tax imposed by this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and shall pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations.

[¶ 7450]

(2) *Default in payment over to Treasurer.*—If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due to Her Majesty in right of Ontario and is a lien upon the property in Ontario of the person in default and has priority over all other claims of other persons, and it shall bear interest at the rate of 6 per cent per annum from the day the amount was due until it is paid.

[¶ 7455]

Sec. 8. Investigation.—(1) Any person thereunto authorized by the Treasurer for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or

Sec. 8—continued

anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and may,

- (a) audit or examine any books and records and any account, voucher, letter, telegram or other document that relates or may relate to the tax imposed by this Act;
- (b) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or the amount of any tax imposed by this Act;
- (c) require a dealer liable to collect or pay over or considered possibly liable to collect or pay over tax imposed under this Act, or, if such dealer is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such dealer to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams or other documents and retain them until they are produced in any court proceedings.

[¶ 7460]

(2) *Demand for information, etc., from dealers.*—The Comptroller may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any dealer or, if any such dealer is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof any information or additional information or production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein.

[¶ 7465]

(3) *Idem, from dealer's debtors.*—The Comptroller may, for any purpose related to the administration or enforcement of this Act and the regulations, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a dealer, or from any partner, agent or official of any such person, partnership, syndicate,

trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein.

[§ 7470]

(4) *Authority to enter and search.*—The Comptroller may, for any purpose related to the administration or enforcement of this Act and the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon an *ex parte* application, authorize in writing any officer of the Office of the Comptroller of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations, and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

[§ 7475]

(5) *Production of records, etc.*—The Comptroller may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose or determining what tax, if any, is collectable or payable under this Act by any dealer or consumer, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

[§ 7480]

(6) *Copies.*—Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Office of the Comptroller of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Comptroller or a person thereunto authorized by the Comptroller to be a copy made pursuant to this subsection is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

[§ 7485]

(7) *Interference.*—No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section

Sec. 8—continued

to do, or prevent or attempt to prevent any person doing any such thing.

[¶ 7490]

Sec. 9. Inquiry.—(1) The Treasurer may, for any purpose related to the administration or enforcement of this Act or the regulations, authorize any person to make such inquiry as he deems necessary with reference thereto.

[¶ 7495]

(2) *Powers.*—For the purpose of an inquiry under subsection 1, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*.

[¶ 7500]

Sec. 10. False returns.—(1) Every person charged with the collection of the tax imposed by this Act and every officer, agent or employee of every such person who signs any return or statement required by this Act or the regulations containing any false statement is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

[¶ 7505]

(2) *Idem, corporations.*—Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

[¶ 7510]

Sec. 11. Information to be secret.—Subject to subsection 2, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

[¶ 7515]

(2) *Communication of information to other jurisdictions.*—The Treasurer may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes

a tax are communicated or furnished on a reciprocal basis to the Treasurer, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax.

[¶ 7520]

Sec. 12. General penalty.—Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not less than ten days and not more than thirty days, or to both and, for any subsequent offence, to a fine of not less than \$500 and not more than \$1,000 or to a term of imprisonment of not less than three months and not more than six months, or to both.

[¶ 7525]

Sec. 13. Information to be laid within three years.—Any information with respect to any contravention of this Act or the regulations may be laid within three years from the time when the matter of such information arose, and not afterwards.

[¶ 7530]

Sec. 14. Disposition of fines.—The fines imposed for offences under this Act are payable to the Treasurer.

[¶ 7535]

Sec. 15. Moneys.—The moneys required for the purposes of this Act during the fiscal year 1965-66 shall be paid out of the Consolidated Revenue Fund, and thereafter such moneys shall be paid out of the moneys appropriated by the Legislature for the purposes of this Act.

[¶ 7540]

Sec. 16. Regulations.—The Lieutenant Governor in Council may make regulations,

- (a) providing for the collection of the tax imposed by this Act and designating the persons by whom it is to be collected;
- (b) prescribing the remuneration to be paid to the persons who collect the tax imposed by this Act;
- (c) requiring surety bonds to be furnished by the persons who collect the tax imposed by this Act, and prescribing the form and amount of such bonds;
- (d) providing for the accounting for and paying over of the tax imposed by this Act, and regulating the time and manner of such accounting and payment;

Sec. 16—continued

- (e) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in such returns and statements, and by whom and in what manner they are to be made;
- (f) establishing a system of permits for wholesale dealers;
- (g) respecting agreements between the Comptroller and the persons who collect the tax imposed by this Act, and providing for their use;
- (h) excluding any class of tobacco products from this Act;
- (i) exempting any class of persons from the payment of the tax imposed by this Act;
- (j) providing for the refund of the whole or any part of the tax paid under this Act, and prescribing the records and material to be furnished upon any application for a refund;
- (k) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act;
- (l) prescribing forms and providing for their use;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

[¶ 7545]

Sec. 17. Commencement.—This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

[¶ 7550]

Sec. 18. Short title.—This Act may be cited as *The Tobacco Tax Act, 1965*.

ONTARIO

TOBACCO TAX REGULATIONS

(O. Reg. 318/65, effective January 1, 1965)

[¶ 7601]

GENERAL

1. **Collector defined.**—In this Regulation, “collector” means a wholesale dealer who is appointed by the Treasurer to act as his agent and to collect the tax imposed by the Act.

[¶ 7603]

2. **Application for Wholesale Dealer's Permit.**—Every application for a wholesale dealer's permit shall,

- (a) contain the name and address of the wholesale dealer; and
- (b) be signed by the wholesale dealer and, where the wholesale dealer is a partnership, shall be signed by one of the partners, and, where the wholesale dealer is a corporation, association or syndicate, shall be signed by the president or other duly authorized officer thereof.

[¶ 7605]

3. **Wholesale Dealer Permit Requirements.**—Every wholesale dealer's permit shall designate the principal place at which the business of the wholesale dealer is to be carried on and shall be displayed in a prominent position at the wholesale dealer's principal place of business.

[¶ 7607]

4. **Ceasing to be Wholesale Dealer.**—Every wholesale dealer who ceases to be a wholesale dealer shall surrender his permit to the Comptroller within ten days of the cessation.

[¶ 7609]

5. **Change of Name or Address.**—Every wholesale dealer who changes the name under which he is carrying on business or the address of his principal place of business shall immediately notify the Comptroller of the change.

[¶ 7611]

6. **Annual Renewal of Permit.**—Every wholesale dealer's permit shall be renewed annually and remains in force, unless otherwise cancelled or suspended, until the 31st day of December in each year.

[¶ 7613]

7. **Loss, Destruction, Etc. of Permit.**—Where a wholesale dealer's permit has been lost, destroyed or defaced, the wholesale dealer shall immediately advise the Comptroller of the loss, destruction or defacement and the Comptroller may issue a copy of the permit, which shall have the same force and effect as the original.

[¶ 7615]

8. **Display of Permit Number.**—Every wholesale dealer shall imprint his permit number in a prominent place on all stationery used by him in connection with his business as a wholesale dealer.

[¶ 7617]

9. **Dealers who are not Collectors.**—Every dealer who is not a collector shall collect the tax imposed by the Act and pay over the tax to a collector.

[¶ 7619]

10. **Monthly Returns.**—(1) Every collector shall,

- (a) on or before the 25th day of each month, in respect of the preceding month, deliver to the Treasurer such return as he requires; and
- (b) remit with the return required by clause *a* the amount of the tax as computed in the return and in accordance with the collector's agreement with the Comptroller.

[¶ 7621]

(2) *Non-Calendar Month.*—Notwithstanding subsection 1, the Comptroller may, upon application in writing, authorize a collector who maintains his records so that he closes his books at the end of a period that does not coincide with a calendar month, but that is not longer in duration than five weeks, to deliver the return and remit the tax required by subsection 1 on or before the 25th day following the end of such period.

[¶ 7623]

(3) *Demand Returns.*—Notwithstanding subsections 1 and 2, the Comptroller may at any time require a collector to deliver a return covering such period and including such information as the Comptroller determines, and the collector shall remit to the Treasurer therewith the tax collected by him during such period.

[¶ 7625]

11. **Annual Statement re Non-Calendar Month.**—(1) Where the Comptroller has authorized a collector to file his return under subsection 2 of section 10, the collector shall, on or before the 1st day of

March in each year, provide the Treasurer with a statement indicating the dates upon which the collector will end each period during the following fiscal year.

[¶ 7627]

(2) *Fiscal Year Commencement.*—The fiscal year referred to in subsection 1 shall commence on the first day of April.

[¶ 7629]

12. **Consolidated Returns.**—(1) The Comptroller may upon application in writing authorize a collector to deliver a consolidated return with respect to all his places of business.

[¶ 7631]

(2) *Schedule re Consolidated Returns.*—Where the Comptroller has authorized a collector to deliver a consolidated return as provided in subsection 1, the return shall be accompanied by a schedule showing the address of each place of business and the amount of tax collected at each place of business.

[¶ 7633]

13. **Report by Retail Dealer.**—Every retail dealer who purchases tobacco from a person other than a wholesale dealer holding a permit issued under the Act shall prepare a report giving particulars of the purchase and forward the report, together with all taxes due with respect to the tobacco, to the Treasurer within twenty-five days of the purchase.

[¶ 7635]

14. **Report by Consumer.**—Every consumer who purchases tobacco from any person who does not hold either a vendor's permit issued under *The Retail Sales Tax Act, 1960-61*, or a wholesale dealer's permit issued under *The Tobacco Tax Act, 1965* shall prepare a report giving particulars of the purchase and forward the report, together with all taxes due with respect to the tobacco, to the Treasurer within twenty-five days of the purchase.

[¶ 7637]

15. **Inventory of Dealer.**—(1) Every dealer shall complete at the close of business on the last day preceding the day on which this Regulation comes into force an inventory report form in duplicate, showing all tobacco on hand and in transit on which tax has not been paid and shall forward the duplicate copy of the report to his local District Sales Tax Office within seven days and shall forward the original copy of the report, together with all taxes due and payable with respect to the tobacco, to the Treasurer within forty-five days.

Reg. 15—continued

[¶ 7639]

(2) *Deduction re Inventory*.—Subject to subsection 3, every dealer is entitled to deduct from the tax due and payable by him to the Treasurer a remuneration of 5 per cent of the tax at the time of remittance of the tax to the Treasurer.

[¶ 7641]

(3) *Delinquent Dealers*.—No dealer is entitled to any remuneration if he fails to complete the inventory report or remit the tax due and payable by him at the time and in the manner required by subsection 1.

[¶ 7643]

16. **Failure to File Return**.—Every dealer who fails to deliver the return required by section 15 shall pay a penalty of \$10 or three times the tax that was payable by him, whichever is the greater.

[¶ 7645]

17. **Assessment on Failure to File Return**.—(1) Where a dealer or collector fails to make a return as required under this Regulation, or if his returns are not substantiated by his records, the Comptroller may make an assessment of the tax collected by the dealer or collector for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected.

[¶ 7647]

(2) *Assessment or Re-assessment by Comptroller*.—The Comptroller may at any time he considers reasonable assess or re-assess any tax collectable by a dealer or collector under the Act.

[¶ 7649]

18. **Compensation of Collectors**.—(1) Subject to subsection 2, every collector is entitled to deduct from the tax due and payable by him to the Treasurer a remuneration of 3 per cent of the tax collected by him at the time of remittance of the tax to the Treasurer.

[¶ 7651]

(2) *Forfeiture of Compensation*.—No collector is entitled to any remuneration if he fails to remit moneys collected by him at the time and in the manner provided in the agreement with the Comptroller.

[¶ 7653]

19. **Records and Books of Collector**.—(1) Every collector shall keep at his principal place of business records and books of account in such form and containing such information as will enable the accurate determination of the taxes collectable under the Act.

[¶ 7655]

(2) **Retaining of Records and Books.**—Every collector shall, until written permission for their disposal is received from the Comptroller, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account.

[¶ 7657]

20. **Bond Requirement.**—(1) The Comptroller may require a collector to deposit with the Treasurer a surety bond satisfactory to the Treasurer in an amount not less than an amount equal to three times the amount of the estimated tax that would be collected by the collector each month under the Act.

[¶ 7659]

(2) **Disposal of Bond.**—Where a collector who has deposited a surety bond with the Treasurer under subsection 1 has failed to collect or remit tax in accordance with the Act, the Comptroller may, by giving written notice to the collector by registered mail or personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the collector under the Act.

[¶ 7661]

21. **Tobacco Returned by Dealer.**—The Treasurer may, upon application from a collector, refund the tax remitted by the collector for tobacco that has been returned by a dealer to the collector for credit and upon which tax has been collected at the time of delivery to the dealer.

[¶ 7663]

22. **Bankrupt Dealer.**—(1) Where tobacco has been purchased on credit from a collector by a dealer who becomes bankrupt, the collector may apply to the Treasurer for a refund of the tax remitted for the tobacco so purchased.

[¶ 7665]

(2) **Limitation re Bankruptcy.**—Every collector applying for a refund under subsection 1 shall advise the Treasurer of the bankruptcy of the dealer within ten days following the receipt of the first notice to creditors.

[¶ 7667]

23. **Documents to Accompany Application for Refund.**—Every application for refund shall be accompanied by receipted invoices that shall clearly show the date upon which the collector collected the tax and the amount of the tax collected.

[¶ 7669]

24. **Misrepresentation.**—Where a collector has misrepresented a material fact, the application for refund shall be disallowed and no refund shall be made with respect thereof.

[¶ 7671]

25. Exempt Persons.—The following classes of persons are exempt from the payment of the tax imposed by the Act:

1. The Government of Canada.
2. Those members of the Diplomatic Corps eligible for inclusion in the Diplomatic List and Representatives of other Countries in Canada as published by the Department of External Affairs, where the tobacco so acquired is for their exclusive use, as follows:
 - i. Heads of Missions, including Ambassadors, Ministers and Charges d’Affaires of foreign countries stationed at Ottawa and diplomatic officers on their staffs.
 - ii. High Commissioners representing countries of the British Commonwealth and officers on their staffs enjoying diplomatic status who are stationed in Ontario.
 - iii. Consuls-General, Consuls and Vice-Consuls of career who are stationed in Ontario.
 - iv. Trade Commissioners and Assistant Trade Commissioners of career who are stationed in Ontario.

[¶ 7673]

26. Tobacco Excluded from the Act.—The following tobacco products are excluded from the Act:

1. Tobacco that is returned either to a manufacturer or importer to be destroyed because it is unfit for consumption.
2. Tobacco that is exported from Ontario.

QUEBEC

THE RETAIL SALES TAX ACT

(Chapter 71, R.S.Q. 1964 as amended)

[¶ 8001]

Sec. 1. Carrying out of act.—The Minister of Revenue shall have charge of the carrying out of this act.

Interpretation

[¶ 8005]

Sec. 2. Interpretation.—In this act, unless the context indicates a different meaning:

[¶ 8010]

(1) “*purchaser*”.—“purchaser” means any person who acquires from a vendor of moveable property at a retail sale in the Province;

[¶ 8015]

(2) “*Department of Revenue*”.—“Department of Revenue” means the Department of Revenue of the Province of Quebec;

[¶ 8020]

(3) “*moveable property*”.—“moveable property” means all property which is not considered immovable by the laws of this Province, and includes gas and electricity, and also telephone service;

[¶ 8025]

(4) “*Deputy Minister*”.—“Deputy Minister” means the Deputy Minister of Revenue;

[¶ 8030]

(5) “*Minister*”.—“Minister” means the Minister of Revenue;

[¶ 8035]

(6) “*person*”.—“person” includes an individual, a firm, a company, a corporation, an association of persons, an estate, a sequestrator, a trustee in bankruptcy, a liquidator, a fiduciary trustee, an administrator or an agent;

[¶ 8040]

(7) “*sale price, “purchase price*”.—“sale price” or “purchase price” mean a price in money, and also the value of services rendered, the

Sec. 2—continued

actual value of the thing exchanged, and other consideration or prestations accepted by the seller as price of the thing covered by the contract of sale. They shall include the charges for the installation of the thing sold, for interest, for finance, for service, for customs, for excise and for transportation, even when such are not shown separately on the invoice or in the vendor's books;

[¶ 8045]

(8) "*Province*".—"Province" means the Province of Quebec;

[¶ 8050]

(9) "*sale*".—"sale" includes a sale pure and simple, a conditional sale, a sale by instalments, an exchange, a lease or any other contract whereby, at a price or other consideration, a person delivers or binds himself to deliver, to another, moveable property;

[¶ 8055]

(10) "*retail sale*".—"retail sale" means a sale to a purchaser or user for purposes of consumption or use, and not for resale;

[¶ 8060]

(11) "*user*".—"user" means any person who, within the Province, utilizes any moveable property for his own use or for that of other persons at his expense;

[¶ 8065]

(12) "*vendor*".—"vendor" means any person who sells moveable property at a retail sale in the Province, for purposes of consumption or use and not for resale;

[¶ 8070]

(13) "*retailer*".—"retailer" means a person whose establishment is outside the Province but who solicits therein, through a representative or by the distribution of catalogues or other means of publicity, orders for moveable property from persons ordinarily residing or carrying on business in this Province, for consumption or use by them in this Province;

[¶ 8075]

Idem.—"retailer" also includes a person who, acting as representative of a business house outside the Province, solicits, receives or accepts from persons ordinarily residing or carrying on business in this Province, orders for moveable property or delivery in this Province, for use and consumption by them in this Province, when the business house which he represents is not registered as a retailer in this Province.

Registration

[¶ 8080]

Sec. 3. Registration certificate.—(1) No vendor shall sell any moveable property in the Province, at a retail sale, unless a registration certificate has been, upon his application, granted to him under the authority of this act, and unless such certificate be in force at the time of the sale.

[¶ 8085]

Contractor, etc.—Every contractor, manufacturer, importer or wholesaler carrying on business in the province shall be subject to the same obligation.

[¶ 8090]

(2) *Application.*—The application for the registration certificate shall be filed with the Deputy Minister.

[¶ 8095]

(3) *Granting and keeping.*—Such registration certificate shall be granted by the Deputy Minister or by such other person as he may appoint, and shall be kept at the chief place of business of the vendor in the Province, and shall not be transferable.

[¶ 8100]

(4) *Refusal of certificate, etc.*—The Minister may refuse to issue such registration certificate to any person who has been found guilty of any infringement of this act. He may also cancel or suspend the certificate issued, in the case of a person who has been found guilty of any infringement of this act.

[¶ 8105]

(5) *Information.*—The following information must be given when a certificate is requested:

(a) By one or more persons doing business under a firm name,—the name and address of such person or persons;

(b) By a partnership,—the name and address of each partner;

(c) By a corporation, club, association or syndicate,—the name and address of the president, if he resides in the Province; if not, the name and address of its manager or representative residing in the Province and the address of its place of business in the Province.

[¶ 8110]

Sec. 4. Registration certificate required.—(1) No retailer shall ship, deliver or cause to be delivered any moveable property to a person ordinarily residing in this Province or carrying on business

Sec. 4—continued

therein, for consumption or use by such person in this Province, unless, upon his application, a registration certificate has been delivered to him under this act and is in force at the time of shipment or delivery.

[¶ 8115]

(2) *Application.*—Subsections 2 to 5 of section 3 shall apply to the registration certificate required by this section.

[¶ 8120]

Sec. 5. Security.—The Minister may require as a condition for the registration of a person who has neither residence nor place of business in the Province, security in such amount as he may fix.

Taxation

[¶ 8125]

Sec. 6. Sales tax.—In order to provide for the exigencies of the public service of the Province, every purchaser shall pay to Her Majesty in the rights of the Province, at the time of making a purchase at a retail sale in the Province, a tax equal to 6% of the purchase price of any moveable property.

[¶ 8130]

Sec. 7. Purchases outside Province, Report, Payment.—Every person ordinarily residing or carrying on business in the Province, who, himself or through the intermediary of any other person, brings or causes to be brought in the Province any moveable property, or receives delivery of any moveable property in the Province, for consumption or use in the Province by himself, shall immediately report the matter to the Deputy Minister and forward or produce to him the invoice, if any, in respect of such property, and any other information required by him, and shall furthermore pay to Her Majesty in the rights of the Province, on the purchase price, the same tax in respect of the consumption or use of such property as would have been payable if the property had been purchased at a retail sale in the Province at the same price, save when such tax has been collected by the retailer.

[¶ 8135]

Sec. 8. Tax payable upon delivery.—Every purchaser or user who, after the coming into force of this act, takes delivery of any moveable property acquired by him for consumption or use in the Province, shall pay to Her Majesty in the rights of the Province, at the time of taking the delivery, a tax of 6% of the retail price of the said property.

[¶ 8140]

Sec. 9. Calculation.—The tax imposed by this act shall be calculated separately on every purchase, and any fraction of a cent shall be counted as one cent. R.S. 1941, c. 88, s. 7.

[¶ 8145]

Sec. 10. Price fixed by Minister.—If at the time of a sale of moveable property or of moveable and immovable property, the price of the moveable property is not specified or is less than its real value, the Minister may fix the purchase price of the moveable property which shall serve as a basis for the taxation provided for in this act.

(1965, c. 27, s. 1.)

[¶ 8150]

Sec. 11. Collection at time of sale.—The tax imposed by section 6, whether the price be stipulated payable in cash, on terms, on instalments or otherwise, shall be collected by the vendor or retailer at the time of the sale on the whole amount of the contract price and be remitted by him to the Minister in such manner as the Lieutenant-Governor in Council may prescribe.

[¶ 8155]

Separate entry.—The tax shall in all cases be shown separately from the sale price.

[¶ 8160]

Collection upon delivery.—The tax imposed by section 8 shall be collected by the vendor or retailer at the time of delivery and be transmitted by him to the Minister in such manner as the Lieutenant-Governor in Council may prescribe.

[¶ 8165]

Sec. 12. Minister agent.—The vendor or retailer shall act, in such cases, as agent for the Minister, and he shall account for and remit to him through the Department of Revenue the amounts so collected, on or before the fifteenth day of each month for the preceding calendar month, even if no sale or delivery subject to the tax was made during the month.

[¶ 8170]

Sec. 13. Allowance to vendor.—The Minister may make an allowance to the vendors and retailers for their services in collecting and forwarding the tax to the Province, which allowance shall be determined by the Lieutenant-Governor in Council.

[¶ 8175]

Sec. 14. Non-residing contractor, etc.—Every person having any work done in this Province by a contractor who has neither residence nor place of business therein shall, if the contractor does not furnish him with proof of registration, withhold and remit to the Minister six per cent of the price; otherwise he shall be indebted therefor to Her Majesty in the right of the Province up to the amount of the tax payable by the contractor on all moveable property used by him in the carrying out of the work.

Exemptions

[¶ 8180]

Sec. 15. Exemptions.—This act shall not apply to the following:

- (a) Bonds and shares of a corporation;
- (b) All other intangible property, all securities, all moneys;
- (c) All transactions made through the Canadian Commodity Exchange Inc;
- (d) All debts, rights of action, incorporeal rights, annuities, insurance premiums;
- (e) Beer and tobacco;
- (f) Gasoline, kerosene and fuel oil;
- (g) Foodstuffs, not including candies and confectioneries;
- (h) Provisions or merchandise sold by a farmer, horticulturist, nurseryman, aviculturist or apiculturist and produced through the pursuit of his undertaking;
- (i) Tools, farm implements, farm machinery, tractors, animal-drawn vehicles and parts for the same, acquired by a *bona fide* farmer to be used for the needs of his farm; horses, harness for horses, livestock, metal wire or netting for fences, also purchased by a *bona fide* farmer to be used for the needs of his farm;
- (j) Boats, fishing nets and any other fishing apparatus purchased by a *bona fide* fisherman to be used in his trade, tugs, cargo ships and passenger ships other than pleasure yachts;
- (k) Natural water, distilled water and ozonized water;
- (l) medicaments on doctors' prescriptions, artificial limbs and orthopaedic appliances;
- (m) Fares on tramways, autobuses, boats, railroads or other transportation systems by land, water or air and toll fares;
- (n) Prices of admission to places of amusement, as defined by the Amusement Tax Act (Chap. 76), as amended;

- (o) Sales to the Federal Government or to the Provincial Government;
- (p) Sales made to a *fabrique* or the trustees of a parish for purposes of worship, or to a cemetery society, company or corporation for the purposes of the cemetery, or to a hospital for the purposes of its work;
- (q) Sales by judicial authority;
- (r) Sales made by any person carrying on business in this Province, when the merchandise thus sold is shipped outside of the Province, for consumption or use outside of the Province;
- (s) Meals;
- (t) Printed books and periodicals; classroom supplies, not including automatic pencils or fountain-pens;
- (u) Telegraph messages;
- (v) Grain and mill feeds, seeds, fertilizers, insecticides, fungicides and herbicides, soaps and other products used for cleaning; drain tiles for agricultural purposes;
- (w) Coal, fire wood and ice;
- (x) Children's clothing and children's footwear;
- (y) Sales for a price of ten cents or less.

Accounts, Reports and Inspection

[¶ 8185]

Sec. 16. Bookkeeping.—(1) The vendor or retailer, as agent for the Minister, shall keep and render accounts of the taxes collected, in the form and manner established by the Minister.

[¶ 8190]

(2) *Affidavit.*—The account rendered shall be verified by the affidavit or the statutory declaration of the vendor or retailer.

[¶ 8195]

(3) *Contractors, etc.*—The Minister may require contractors, manufacturers, importers, wholesalers, retailers or vendors to keep in a prescribed form record of all purchases and sales of moveable property by them, and to forward to him copies of such records or extracts therefrom, at such time and in such manner as he deems fit. He may also compel any finance company to keep its contracts for such time as he prescribes and to send him copies thereof.

[¶ 8200]

(4) *Inspection of books, etc.*—Any revenue officer duly authorized to that effect may enter the premises of a manufacturer, importer,

Sec. 16—continued

wholesaler, retailer or vendor during reasonable hours, examine his books and documents, verify the quantities of moveable property sold or delivered, establish the correctness of the reports made, and, in the event of a report not being correct or not having been made, establish the quantity of moveable property sold or delivered and the amount of the tax to be collected or paid and report accordingly to the Deputy Minister. (1965, *c. 27, s. 2.*)

(1965, *c. 27, s. 2.*)

[¶ 8205]

Sec. 17. Returns by vendor.—Every person to whom a registration certificate has been issued under this act shall make such returns to the Department of Revenue, in such form, at such time and with such information as the Minister may prescribe.

[¶ 8210]

Sec. 18. Secrecy.—No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under the provisions of this act, nor allow any such person to examine or have access to any statement or return furnished under the provisions of this act.

[¶ 8215]

Sec. 19. Disclosures to other governments.—The Minister may

- (a) communicate or permit the communication of any information obtained under this act, or
- (b) permit the examination or communication of any written statement furnished under this act,

to the government of any province which agrees to exchange with the Province of Quebec information obtained in the carrying out of its retail sales tax act, provided that the information is furnished for the sole purpose of the carrying out of the retail sales tax act of such other jurisdiction.

Offences and Penalties

[¶ 8220]

Sec. 20. Offences, Penalty.—Every person who;

- (a) Sells, delivers, causes to be delivered moveable property in the Province, without a registration certificate still in force, or otherwise contravenes the provisions of section 3 or section 4 of this act or of the regulations made in virtue of this act, or
- (b) acting as the representative of a business house not registered as a vendor or retailer in the Province, solicits, receives or accepts from a person ordinarily residing or carrying on busi-

- ness therein, an order for any moveable property for delivery in the Province for his own use and consumption in the Province, or
- (c) being an agent of the Minister, refuses or neglects to collect, account for, report or remit the amount of the tax in accordance with the provisions of this act or of the regulations made thereunder, or
 - (d) refuses to permit a revenue officer to make the examination and verification contemplated under section 16 or otherwise infringes the same or infringes section 17,

commits an offence against this act and shall be liable, upon summary proceeding, in addition to the payment of the costs and to the obligation to report and remit the tax, to a fine of fifty to one thousand dollars, and, in default of the payment of the fine and costs and in default of the report and payment of the aforesaid tax, to imprisonment for three months.

[¶ 8225]

Sec. 21. Failure to pay, Penalty.—Every person who infringes the provisions of sections 6, 7 or 8 of this act, shall be guilty of an offence and shall be liable, upon summary proceeding, in addition to the payment of the tax and costs, to a fine of not less than ten dollars and not more than one thousand dollars, and, in default of payment of the fine, tax costs, to imprisonment for one month.

[¶ 8230]

Sec. 22. Violating secrecy, Penalty.—Any person violating any of the provisions of section 18 of this act shall be liable to a fine of not less than twenty-five dollars and of not more than two hundred dollars, and costs, and, in default of payment of the fine and costs, to an imprisonment not exceeding three months.

Prosecutions

[¶ 8235]

Sec. 23. Suits.—(1) Suits brought under this act in this Province shall be governed by the Summary Convictions Act (Chap. 35) save that, whenever the payment of the tax is claimed, such suit shall be brought before the Superior Court or any other court of competent jurisdiction in civil matters.

[¶ 8240]

(2) *Proof.*—It shall not be necessary to produce the original of a book, document, order or register in the possession of the Department of Revenue, but a copy or extract certified by the Deputy Minister or by the Director of the Service, shall be *prima facie* sufficient proof of the contents of the original.

Sec. 23—continued

[¶ 8245]

(3) *Deputy-Minister represented.*—It shall not be necessary for the Deputy Minister to sign or swear to the complaint, to appear or to make proof of his appointment and of his exercising his office; for all purposes he shall be represented by the attorney appearing on behalf of the Deputy Minister.

[¶ 8250]

Sec. 24. Injunction.—In addition to the recourses specially provided under this act for the violations of its provisions, Her Majesty in the rights of the Province may apply to a judge of the Superior Court for the granting of an injunction against any person who sells moveable property without having obtained a registration certificate still in force, ordering him to cease selling moveable property until a registration certificate is issued or reissued, and all costs are paid.

[¶ 8255]

Security.—The Deputy Minister of Revenue shall be dispensed from the obligation of giving security.

[¶ 8260]

Procedure.—In all other respects, the provisions of the Code of Civil Procedure respecting injunctions shall apply to the injunction proceedings mentioned in this section.

[¶ 8265]

Sec. 25. Partnership, etc.—Whenever a judgment has been rendered under this act against a partnership, corporation, club, association or syndicate, such judgment may, in default of payment of the fine and costs, be executed:

- (a) In the case of a partnership, against each member of the partnership;
- (b) In the case of a corporation, club, association or syndicate, against its president if the latter be in the Province, and, if not, against its manager or representative in the Province.

General Provisions

[¶ 8270]

Sec. 26. Arrangements with vendors, etc.—In order to facilitate the collection and remittance of the tax imposed by this act or to prevent the double payment of such tax on the same moveable property, the Minister may effect such arrangements as he may deem expedient to make with a vendor or retailer and such arrangements shall be subject to this act.

[¶ 8275]

Sec. 27. Proceedings by non-resident vendor, etc.—A person who has neither residence nor place of business in the Province cannot institute or continue any proceedings therein for the recovery of a debt arising from the sale or delivery of property to a person who resides or carries on business therein, unless he holds a registration certificate issued under this act.

Such incapacity shall be noticed *ex officio* by the court and its officers.

Nevertheless, any proceedings instituted shall be valid notwithstanding such incapacity upon the subsequent obtaining of the registration certificate.

[¶ 8280]

Sec. 28. Consolidated revenue fund.—The fees and taxes imposed by and collected under this act, and all fines recovered thereunder, shall form part of the consolidated revenue fund of the Province.

[¶ 8285]

Sec. 29. Interest.—Every tax due under this act shall bear interest at the rate of six per centum per annum, from the date such tax should have been remitted to the Department of Revenue.

[¶ 8290]

Sec. 30. Privilege of Crown.—Every sum due to the Crown under this act shall constitute a privileged debt ranking immediately after law costs.

[¶ 8295]

Sec. 31. Regulations.—For the purpose of carrying into effect the provisions of this act according to their true intent or of supplying any deficiency therein, the Lieutenant-Governor in Council may make such regulations, not inconsistent with this act, as are considered necessary.

[¶ 8300]

Effect publication.—Such regulations shall have the same force and effect as if enacted by this act and shall be published in the *Quebec Official Gazette*.

[¶ 8305]

Sec. 32. Deputy Minister.—The Deputy Minister may exercise all the powers and carry out all the duties devolving upon the Minister under this act.

[¶ 8310]

Sec. 33. [Rights to compensation].—Municipalities shall be entitled to a compensation, payable out of the consolidated revenue fund, in lieu of the right to impose a retail sales tax.

Sec. 33—continued

Such compensation shall be one-third of the tax collected under this act during each fiscal year from the 1st of April 1965.

It shall be apportioned for each fiscal year as follows.

(1965, *c. 27, s. 3.*)

[¶ 8315]

Sec. 34. [Rate of compensation].—Each municipality shall receive:

(1) One-half of one-third of the tax collected in its territory;

(2) A share, in proportion to its population, of an amount equal to 40% of one-third of the tax collected in its economic region;

(3) A share, in proportion to its population, of an amount equal to 10% of one-third of the tax collected in all economic regions.

(1965, *c. 27, s. 3.*)

[¶ 8320]

Sec. 35. [Minimum compensation].—Notwithstanding section 34, each municipality shall receive for each fiscal year an amount at least equal to that received for the fiscal year 1964-65 under section 13 of the act 12-13 Elizabeth II, chapter 28.

(1965, *c. 27, s. 3.*)

[¶ 8325]

Sec. 36. [Maximum compensation].—No municipality shall receive under section 34, for the fiscal years hereinafter mentioned, an amount exceeding the proportion of the amount mentioned in section 35 which is shown opposite such fiscal year as follows:

<i>Fiscal year</i>	<i>Proportion</i>
1965-66	4/3
1966-67	5/3
1967-68	6/3

(1965, *c. 27, s. 3.*)

[¶ 8330]

Sec. 37. [Maximum compensation, 1968-69].—From the fiscal year 1968-69, no municipality shall receive under section 34 an amount exceeding one and one-half times the amount received for the preceding fiscal year.

(1965, *c. 27, s. 3.*)

[¶ 8335]

Sec. 38. [Distribution prior to 1968].—If, at the end of the period contemplated in section 36, the total amount distributed to the municipalities for such period is less than the total compensation provided for in section 33, the difference shall be apportioned after

the end of the last fiscal year among all the municipalities in proportion to their population.

The same shall apply to each subsequent fiscal year if the amount distributed is less than the total compensation provided for.

(1965, *c. 27*, *s. 3*.)

[¶ 8340]

Sec. 39. [Payment by Minister].—The Minister of Revenue shall pay the compensation at the times that were fixed for the remittance to municipalities of the sales tax collected on their behalf and so as to remit at each maturity an amount at least equal to the amount remitted at the same maturity for the fiscal year 1964-65.

(1965, *c. 27*, *s. 3*.)

[¶ 8345]

Sec. 40. [Inclusions in tax collected].—For the purposes of sections 33 to 38, the tax collected under this act shall include every sum collected on behalf of a municipality as a municipal retail sales tax and every sum so collected shall be deemed to be included in the share of compensation allotted to such municipality.

(1965, *c. 27*, *s. 3*.)

[¶ 8350]

Sec. 41. [Population shown by census].—For the purposes of section 34, the population of a municipality shall be that shown in the last census made by the Government of Canada and published before the end of the fiscal year.

(1965, *c. 27*, *s. 3*.)

[¶ 8355]

Sec. 42. [Population in case of amalgamation, etc.].—In the case of amalgamation or total annexation of municipalities, the population of the new or subsisting municipality shall be that of the whole and the amount received during a previous fiscal year shall be the total received by the whole.

In the case of partial annexation, the population of the municipality partially annexed and the amount received by it shall be decreased in proportion to the area that the territory annexed bears to the whole and the decrease shall be added to the population of the other municipality and to the amount received by it. Nevertheless, a different method of apportionment may be prescribed in the annexation by-law.

(1965, *c. 27*, *s. 3*.)

[¶ 8360]

Sec. 43. [Repeal of contractual provisions].—All legislative or contractual provisions relating to the sharing of the proceeds of a municipal retail sales tax are repealed as from the 1st of April 1965.

Sec. 43—continued

However, the city of Montreal shall receive out of the one-third of the tax collected in the economic region of Montreal the amounts which it was entitled to levy on the proceeds of the municipal retail sales tax or of the compensation in lieu thereof, as a contribution to the Fund for the Montreal Council of Arts or to the operating deficit of the Régie de la Place des Arts. Consequently, the amount equal to 40% of one-third of the tax collected in such economic region shall be apportioned in proportion to population only after such deductions have been made. For the purposes of section 35 to 38, however, the amount shall be deemed to have been apportioned without such deductions.

(1965, *c. 27, s. 3.*)

[¶ 8365]

Sec. 44. [Economic regions].—For the purposes of sections 33 to 43:

- (a) each economic region consists of the municipalities in the territory mentioned opposite its name in the schedule;
- (b) the cities and towns form part of the counties mentioned;
- (c) the counties of Québec, Hull and Saint-Maurice, Ile-Jésus and Ile-de-Montréal include all of the adjoining territory that does not form part of the neighbouring counties.

(1965, *c. 27, s. 3.*)

[¶ 8370]

Sec. 45. [Municipality in unorganized territory].—A municipality constituted in an unorganized territory shall receive for each fiscal year ending before the publication of the ensuing census one-third of the tax collected in its territory, and during such period sections 36 and 37 shall not apply to it and the tax collected in its territory shall not be taken into account for the purposes of section 34.

Saving the provisions of this section, the compensation to municipalities shall not include any portion of the tax collected in a territory not organized as a municipality.

(1965, *c. 27, s. 3.*)

[¶ 8375]

Sec. 46. [“Municipality” defined].—In sections 33 to 45, the word “municipality” refers to local municipalities only.

(1965, *c. 27, s. 3.*)

QUEBEC

RETAIL SALES TAX REGULATIONS

(Full text of Regulations, Orders in Council, Directives and Instructions issued under the Retail Sales Tax Act.)

[¶ 8501]

0-01.1. Printers, Lithographers, Typographical Trade Plants and Others.—Typesetters, engravers, compositors, typographers, lithographers and printers must obtain a certificate of registration.

All materials forming a physical component part of a manufactured product are not subject to tax.

Printed matter such as shares, bonds, hand bills, business cards, envelopes and tickets of all sorts, etc., are fabricated products and their printer must collect the tax on the total sale price of these products. It is considered to be the sale of a finished product and the price of the labour or service furnished, must not be deducted from the total price for the calculation of the tax, even if it appears separately on the invoice. When the customer furnishes the material himself, the printer provides only a service and the tax is not exigible.

Printers, engravers, compositors, typographers, etc., are the consumers of:

1.—Cuts, photo-engravings, electrotypes, engravings on woods, zinc or stone or all other engravings designed for printing or lithographing;

2.—Photographs, sketches, drawings and all work of art;

3.—Plates (vignettes) and mats when bought for their own use.

Consequently, they must pay, by remitting with their monthly report, the tax on the purchase price of such material.

However, when their books or records indicate clearly that the price charged for their printing includes cuts, photo-engravings, electrotypes, photographs, sketches and drawings used in the production of their printing, the printers, engravers, etc., do not have to pay on such material if the customer retains the ownership.

They must collect the tax on the sale price of the cuts, photo-engravings, electrotypes used, when the printing contracts are for the printing of books or other products which are exempt from the application of the Act. When such material is sold by the engraver, printer or any other vendor, to the customer, independently of the work of printing, or invoiced separately, the tax must be collected.

Reg. 0-01.1—continued

Printing type, quadrats, spacings, ruling forms and all other printer's forms made of soft or hard metal, are subject to the tax when the printer retains the ownership.

In the case of typographical composition being done for the printer by a typographical trade plant, such composition itself is not taxable as it is strictly a service.

Furthermore, the metal carrying the composition is not taxable as far as the printer is concerned, as said metal remains the property of the typographical trade plant. However, the typographical trade plant being the consumer of the metal will pay tax on it at the time of purchase of such material.

[¶ 8505]

0-02.1. Foreign Consuls.—Foreign Consuls must pay the tax directly to their suppliers on all purchases of merchandise for personal use and for office use.

However, Foreign Consuls may file a demand for refund of the tax so paid in cases where the purchases made for office use are paid by the Government they represent.

The demand for reimbursement must be accompanied by supporting documents and proof must be made to the effect that the merchandise has been purchased and paid for with the funds of the government they represent.

[¶ 8510]

0-03. Containers: Boxes, Cases, Bottles, Jars, Cans, Barrels, Drums, Casks, Twine, Cord, Sawdust, Paper and all Other Packing Materials.—Registration certificate holders who, for the delivery of merchandise which they sell, utilize containers and packing materials which become the property of the customers without any additional charge, are not subject to the payment of the tax on their purchases of such containers and packing materials. When they manufacture them, they are not required to pay the tax on their purchases of materials which they incorporate. These containers and packing materials are considered to form a part of the merchandise sold.

If they are the ultimate consumers of containers and packing materials, they must pay the tax.

They are considered to be the ultimate consumers when they utilize them solely for the handling of their merchandise before delivery; when they utilize them to render services, such as laundry firms, etc.; when they utilize them to deliver merchandise sold, but retain the ownership; or when they claim a deposit for the containers to be refunded when the containers are returned. Such deposit is not subject to the tax.

Empty containers and packing materials sold to a person who is not a registration certificate holder are subject to the tax.

Sales of containers, wrapping paper, twine, paper boxes, etc., to persons who render services exclusively, are subject to the tax, and these persons are liable for the payment of the tax.

The sales tax is not exigible on sales of containers to bona fide farmers for the canning of food products for resale purposes.

[¶ 8515]

0-04. Municipal and School Corporations.—Municipalities are not subject to the tax they impose, but they must pay the provincial and school taxes.

School corporations are not subject to the tax they impose, but they must pay the provincial and municipal taxes.

Municipalities and school corporations are subject to municipal and school taxes imposed in other territories, when they purchase and take delivery of taxable merchandise in such territories.

[¶ 8520]

0.05 Printing and Advertising Expenses.—Registration certificate holders must pay the tax on purchases of office supplies, such as circulars, business cards, invoice forms, statements, and all accounting forms, registers, minute books and all other printed matter with the exception of newspapers, periodicals, reviews and printed books. They must also pay the tax on purchases of blotters, calendars and all other articles which they distribute for publicity purposes.

The labels and all identification tags attached to a product, the printed matter giving instructions for use and information about the product it accompanies, are considered to form a part of the product sold and are not subject to the tax.

Price tags, shipping tags and labels used for publicity purposes are subject to the tax.

Advertising space in newspapers, reviews, periodicals and other publications including bill-boards is not subject to the tax, but the cuts, sketches, engravings, vignettes, mats, etc., used for such advertisements are subject to the tax.

[¶ 8525]

0-05.1. Financial Statements.—Paragraph *t.* of article 12 of the *Retail Sales Tax Act* provides for an exemption to sales of printed books.

Reg. 0-05.1—continued

Financial statements are not considered as printed books. However, when they are incorporated or form part of a manual containing the history of a corporation or information about its operations, they are not subject to the tax.

[¶ 8530]

0-06.1. Exchange or Barter.—In a case of exchange or barter, the true market value of the merchandise exchanged constitutes the selling price, and the tax must be paid on that value by each of the parties to the transaction, except collecting agents who buy for resale.

However, when a person gives in exchange, for part of merchandise purchased by him other merchandise of the same kind, the tax shall be payable only on the balance of the purchase price.

This directive only applies to exchanges of merchandise of the same kind, such as an automobile for an automobile, a tractor for a tractor, or television set for a television set, a stove for a stove.

It does not apply to an exchange of an automobile for a tractor, a radio for a television set, a stove for a bedroom set, a bulldozer for a tractor, etc. In the latter case, the tax must be paid on the total price demanded for the moveable property purchased.

Examples :

- (a) An automobile is sold for \$2,400.00 and an allowance is made for a used automobile valued at \$1,200.00. The tax must be charged and collected on \$1,200.00 only.
- (b) A television set is sold for \$500.00 and the vendor accepts in exchange a radio for which he allows \$100.00. The tax must be charged and collected on \$500.00 since the radio accepted in exchange is not of the same kind.

The merchandise thus received in partial payment of other merchandise of the same kind is subject to the sales tax when it is resold.

[¶ 8535]

0.07. Electricity and Gas.—Electricity is subject to the tax when it is used for lighting, heating, ventilating, refrigerators, motive power for the transportation of persons or the handling of moveable objects by means of elevators, trucks, cranes, etc., or when it is used for any purpose other than manufacturing.

The tax is not exigible on electrical energy used by manufacturers directly in the process of transforming or manufacturing a product. Persons wishing to be exempted must file a request and furnish all the information required by the Sales Tax Service in order to justify the exemption.

If the exemption is granted, the Power Company is authorized, in writing, by the Revenue office to invoice free of tax. These persons must, however, remit monthly, directly to the Sales Tax Service, the tax due on the proportion of electricity used for other purposes than manufacturing.

When electricity, for both taxable and non-taxable purposes comes through the same meter, the tax is payable on the total amount of electricity used, except in cases where it is not possible to install several meters, and where the amount of electricity used as a manufacturing agent may be established to the satisfaction of the Sales Tax Service.

The tax applies on all amounts paid for taxable electricity, whether no electricity has been consumed, whether it is invoiced on a minimum basis, a fixed price or otherwise. When interest charges are exigible the tax does not apply, provided such charges are shown separately.

This ruling also applies to gas and fuel oil* when these agents are used instead of electricity.

[¶ 8540]

0-08. Electricians and Plumbers.—Electricians and plumbers must secure registration certificates and pay directly to their suppliers the tax on the machinery, tools, instruments and all other articles which they purchase for use in their trade.

Whenever they execute lump sum contracts on immovables, they are considered to be the consumers of the materials which they utilize. They do not collect the tax from their customers, but must pay the tax on the materials utilized to execute such contracts at the prevailing rate in the municipality where the work is performed.

Whenever they execute work upon immovables on a basis of time and materials, they must collect the tax on the price of these materials. They must also collect the tax in all other cases where they effect sales of materials.

When they execute work upon movable objects, such as furniture, vehicles, machines, apparatus, etc., they must collect the tax on the whole of the invoice, unless the price of the materials, and the work provided are indicated separately. In the latter case, the tax is to be collected on the price of the materials only.

When they work at the manufacture of a movable object, or to repair or improve it before disposing of it by sale, they must collect the tax on the full amount of the selling price.

* Fuel oil was exempted by Chap. 43, 1960-61, effective May 1, 1961.

Reg. 0-08—continued

Electricians and plumbers, who install complete heating, lighting, or air-conditioning systems, carry out construction contracts and must conform to the regulations governing contractors who build, improve or repair immovables.

[¶ 8545]

0-09. Discounts.—Trade discount, or that discount on merchandise allowed by custom and appearing as such on the invoice, is not to be considered as forming part of the selling or purchase price for the purpose of computation of the tax.

Cash discount, or discount given for payment within a specified period of time, may be deducted from the selling price for the computation of the tax only if the customer takes immediate advantage of it.

[¶ 8550]

0-10. Importation Charges.—The sales tax must be paid on the total price paid for imported merchandise, and the custom duties, the Federal sales tax and other excise taxes are not to be deducted for the calculation of the tax, even if they are indicated separately.

[¶ 8555]

0-14.2. Rentals.—1. Effective April 1, 1955, the tax is applicable on the rental of movable property even in cases where the lease was signed prior to April 1, 1955.

2. Persons leasing occasionally are held to collect the tax on the rental price of movable property.

3. No refund of tax may be considered for tax paid prior to April 1, 1955 on movable property purchased for renting purposes.

4. Holders of registration certificates authorized to add the suffix "P" following their registration number may utilize same to rent free of tax. However, they will declare, through the medium of their monthly sales tax returns, the rental value and will remit to the Minister of Revenue the tax due.

5. **Drums:** Rental charges made after the expiry date are subject to tax.

6. **Signs:** The rental price of "Neon" signs usually includes the charge for maintenance. The tax is exigible on the total amount of the invoice, even though the charges are shown separately.

7. **Apartments and stores:** When the rental price includes both the premises and the use of furniture or fixtures, the tax is not exigible. However, if the contract specifies a price for the movable property, the tax is exigible.

8. **Machinery:** When a person leases a machine, such as shovels, tractors, bulldozers, etc., with the services of his operator, the tax is not exigible.

9. **Radar—Radios, Television Sets, Intercommunications Systems:** The tax is exigible on the total amount of the invoice. Service charges must not be deducted for the calculation of the tax.

10. **Teletype Service:** The tax does not apply on charges for service. Companies are held to pay the tax on the cost of materials and equipment used to render their services.

11. **Public halls:** The tax is not exigible on the rental value of public halls even in cases where the price includes the use of a piano, loudspeaker, decorations, etc. However, if an additional charge is made for such movable property, the tax is exigible on the rental charge.

12. **Towel and Linen Service:** The tax is not exigible, even in cases where the cleaners supply the movable property, such as towels, aprons, coats, wipers, etc., which are not usually invoiced separately.

13. **Tank cars:** The tax is not exigible, as they are considered as immovable property after delivery to users.

[¶ 8560]

0-14.4. **Rentals.**—All persons renting movable property taxable under the provisions of the *Retail Sales Tax Act*, must collect the sales tax from the lessee. Such tax is then computed on the amount paid or payable for the rental.

All persons renting movable property taxable under the provisions of the *Retail Sales Tax Act* and granting the lessee an option to acquire said property on certain conditions must collect the sales tax from the lessee on the rental price. However, when the lessee decides to exercise his right of option on same movable property, tax must be collected on the net amount required at the time such right of option is exercised, i.e., on the sale price originally set for the sale pure and simple, deduction being made of amounts already paid as rentals and which can, pursuant to the contract, be applied on the sale price:—

Example: Sale price at the time the right of option is exercised \$500.00; rental price applied as a deduction and on which tax has already been paid \$200.00—tax required on the balance due, \$300.00.

However, this regulation does not apply to pleasure cars, trucks, station wagons, motorcycles and bicycles rented by persons using them exclusively for renting purposes. In such cases, the lessor himself must pay tax on the purchase price of the cars. In the case of

Reg. 0-14.4—continued

authorized dealers, under the provisions of the *Motor-Vehicles Act*, who have not been requested to pay tax at the time of purchase, they must, if they casually do some renting, collect the sales tax from the lessee on the rental price.

In the case of movable property taxable under the provisions of the *Retail Sales Tax Act* which are rented and temporarily brought into the Province for use and consumption, tax will be based on the rental price. If the lessor has no place of business in the Province, the sales tax payable on the rental shall be remitted to the Minister of Revenue by the lessee himself. In no case shall the monthly rental price be lower than 1/60 of the purchase price of such movable property paid by its owner, if the period of the lease does not exceed twelve (12) months. After a period in the Province of twelve (12) consecutive months, the movable property is subject to tax on its full value at the time of entering the Province, less any tax that may have been paid on the rental charges during the twelve (12) preceding months.

The present regulation applies to all kinds of rentals, whether it be a lease pure and simple, a lease with a promise of sale, a lease with an option to purchase, or any other contract whereby the right of use of movable property is transferred from one person to another for consideration, without there being actual transfer of the right of ownership.

The present regulation supersedes all regulations previously issued on the same subject and becomes effective June 1st, 1957.

[¶ 8565]

0-15. Prefabricated Buildings.—The sales tax is applicable on the sale of prefabricated buildings or parts, to a consumer who erects the building himself. They are treated the same as sales of other tangible movable property.

If a contractor undertakes to supply and erect a prefabricated building, in consideration of a lump sum contract, he must conform with the regulations issued under classification 5-02.

[¶ 8570]

0-16. Merchandise, For Use or Consumption, Bought From Vendors Whose Place of Business is Outside of the Province, or From Vendors Whose Place of Business is Outside of Territories Subject to Municipal and School Sales Taxes.—In virtue of the *Retail Sales Tax Act*, every purchaser residing or having his place of business in the Province, must remit directly to the Minister of Revenue the tax due on all merchandise bought for his own use or consumption from vendors residing or having their place of business outside of the Province.

Similarly, each purchaser, whose ordinary residence or place of business is situated within a territory subject to a municipal and/or school sales tax in addition to the payment of the provincial sales tax, must pay directly to the Minister of Revenue, the municipal and the school sales taxes due on all merchandise purchased for his own use or consumption within the said territory, from vendors residing or whose place of business is located outside of the territory subject to the said municipal and/or school sales tax.

[¶ 8575]

0.17. Refractory Materials and Catalysts.—All refractory materials and catalysts used by manufacturers are subject to the tax.

Refractory materials used to cover furnaces, hearths, checker housings, bases and flues are, without exception, subject to the tax.

[¶ 8580]

0-18. Medicaments Sold to Doctors.—Paragraph “l” of article 12 of the *Retail Sales Tax Act* provides that no tax is exigible on medicaments sold on doctors’ prescriptions. The refilling of a doctor’s prescription is also exempt.

Sales of medicaments to doctors to be used in the treatment of their patients are not subject to the tax.

By medicaments is meant specifically the curative substances administered internally or externally.

The above exemption does not cover such articles as sterilized gauze, wadding and absorbent cotton, bandages, rubber gloves, vaporizers, rubber bags, X-Ray and surgical material, etc., on which the vendor must collect the tax.

Doctors who regularly sell drugs, patent medicines and other preparations of this sort, independently of their professional services, must obtain a registration certificate and collect the tax on their sales.

[¶ 8585]

0-20. Ships, Ship Stores and Supplies, Ship Repairs.—Ships: Ships, yachts, launches, canoes and all kinds of boats are moveables (Civil Code, article 385) and are subject to the Provincial Sales Tax only. When used outside of the territories of the municipalities they are not subject to the Municipal and School Sales Taxes.

The tax must apply on the total sales price of these objects even when they are constructed according to plans and specifications supplied by the purchaser.

Reg. 0-20—continued

Ship stores and supplies: Ship stores and supplies delivered on board of ships, to be used and consumed thereon, are subject to the Provincial Tax but not to the Municipal and School Sales Taxes.

Ship repairs: In cases of repairs and alterations to ships, yachts, launches, canoes and boats of all kinds, the Provincial Sales Tax must apply on the total amount of the invoice, unless the price of the materials and the price of the work performed are shown separately. In the latter case, the tax is applicable on the price of the materials only.

Application of the Tax: All navigation companies engaged in the purchasing of ships, ship stores and supplies, should secure registration certificates. All their purchases should be made under registration number and the tax due on purchases subject to the tax should be remitted directly to the Province.

Purchases made for vessels which travel regularly between ports in the Province and ports in other Provinces or other countries, are not subject to the tax. Repairs or alterations to these vessels are also not subject to the tax.

Purchases made for vessels engaged in the transportation of passengers or merchandise between different ports in the Province are subject to the tax. Repairs or alterations to these vessels are subject to the tax.

All purchases made by navigation companies for their offices, wharfs and warehouses in the Province are subject to the Provincial and the Municipal Sales Taxes.

[¶ 8590]

0-23. Spare Parts Supplied Under Guarantee as Part of a Sale.—In the case of the sale of a machine, apparatus, etc., for which the vendor guarantees as part of the sale to provide free of charge parts or material, the selling price covers not only the machine or apparatus delivered, but also the value of the parts delivered to the purchaser during the period of the guarantee.

Consequently when the purchaser has paid the tax on the machine, he is considered to have paid the tax on the spare parts which are delivered to him, without additional charge, to replace the defective parts of the machine or apparatus.

[¶ 8595]

0-25. Clothing Contractors.—Persons who make or repair clothing for the account of other persons, and who furnish no material and sell no merchandise, are considered to render services only. They are known in trade as “contractors” who receive materials from manufac-

turers and perform work on such materials for a fixed price. There are also dressmakers and designers who do dressmaking work at the home of their clients or at their own home with materials furnished by the clients, and receive remuneration for their services. Such services are not subject to the tax.

Clothing contractors are considered as manufacturers.

[¶ 8600]

0-26.1. Agricultural Co-operative Societies.—These societies must secure registration certificates and collect the tax when they sell at retail merchandise subject to the tax.

They must pay the tax directly to their suppliers on all their purchases of merchandise made for own use or consumption, such as furniture, stationery, office supplies, machinery, tools, equipment, etc.

They are not entitled to the exemptions granted to bona fide farmers in virtue of article 12 of the Act.

[¶ 8605]

0-28. Obligations Concerning a Guarantee.—The tax applies to the transfer of ownership of moveables as a guarantee to fulfil an obligation and must be refunded if the article given as the guarantee is returned, if not, the tax is applicable.

[¶ 8610]

0-29. Indians and Eskimos.—*The Retail Sales Tax Act* does not exempt sales made to Indians and Eskimos.

Indians and Eskimos who buy outside of their reservation from white people or other Indians, movable property for their own use or consumption, are required to pay the tax on such movable property regardless of the location where the goods are delivered.

The tax also applies to sales made in the reservations, when the vendor is a person other than an Indian or Eskimo.

Indian and Eskimo retailers, whose establishments are situated within the reservations, must collect the tax on all taxable sales made to persons other than Indians or Eskimos, regardless of the location where the sale or delivery is made.

However, the sales tax is not exigible on sales made to Indians in their reservations by Indian retailers carrying on business within the limits of the reservations.

[¶ 8615]

0-32. Charges for Installation, Service or Maintenance, Transportation, Interest and Finance.—Tax must be paid on the total selling price of the merchandise, including the above mentioned charges.

When the purchaser is called upon to pay such charges, in addition to the selling price, and the vendor enters them separately, on the invoice, the tax is to be collected on the selling price of the merchandise only and not on the charges mentioned above.

[¶ 8620]

0-33.1. Skates and Children's Footwear.—In conformity with paragraph "X" of Section 12 of the *Retail Sales Tax Act*, children's footwear is not subject to the tax.

The exemption only applies to children's footwear up to size 6 inclusively.

Persons who sell skates fixed to children's shoes must collect the tax on the full amount of the invoice, unless the sale price of the skates is indicated separately. In the latter case, the tax is to be collected on the sale price of the skates only.

[¶ 8625]

0-34. Demonstrators—Motor Vehicles.—**DEMONSTRATORS TAKEN IN INVENTORY OF MOTOR VEHICLES FOR SALE**

Authorized automobile dealers who are holders of a permit issued by the Motor Vehicles Service are not held to pay the Retail Sales Tax on the purchase price of pleasure automobiles used as demonstrators which remain the ownership of the dealers and which, not being capitalized, form part of their inventory of automobiles for sale.

However, authorized automobile dealers are held to pay, as users, the sales tax on the purchase price (manufacturer's price) of automobiles used as demonstrators, if the latter are not sold or transferred to the inventory account [at the latest] within ninety (90) days following the date of presentation of new models of the same make and type of those used as demonstrators.

The transfer from the "demonstrators" account to the "inventory" account of automobiles for sale must be supported by bookkeeping entries.

Each year, The Montreal Automobile Trade Association Limited shall provide a list of new models with the date of presentation of each model.

AUTOMOBILES CARRIED IN THE BOOKS OF THE DEALERS
AS AN ASSET OR CAPITALIZED

Authorized automobile dealers who capitalize automobiles and/or, who register them in their own name or in the name of one of their salesmen, are held to pay sales tax on the purchase price of said automobiles at the time of registration with the Motor Vehicle Service.

They must pay sales tax on service cars, towing trucks, repair parts, tools, tires and all other movable effects bought for their own use or consumption.

[¶ 8630]

Instructions, Automobile Vendors, Lessors, and Dealers.—All automobile dealers must have a permit from the Motor Vehicle Bureau to deal in the sale of motor vehicles in the Province of Quebec.

These dealers are registered with the Provincial Sales Tax Service in the categories designated by the letters “FA”, “FB” and “FN”.

The merchants in other categories are not licensed to deal in the sale of motor vehicles and the sales tax should be paid on all their transactions, on the purchases as well as on the sales.

Consequently, it is not permitted to sell vehicles without collecting the sales tax at the time of the transaction, to a person or a company having no sales tax certificate identified by the letters “FA”, “FB” or “FN”.

Nevertheless, holders of a sales tax certificate number ending by the letter “P”, are not subject to the payment of the tax at the time of the registration or purchase of motor vehicles. They themselves remit the said tax on their purchases through their monthly returns.

Vehicles which must be registered by the Motor Vehicle Bureau are: passenger cars, trucks, tractors, motorcycles, trailers, semi-trailers, all mobile-ski units, scooters, buses, ambulances, hearses, industrial machinery and all other machineries which require a motor vehicle license.

Enclosed you will find a new registration certificate bearing license number

You will note that the authorization to use the suffix “P” following your license number has been cancelled due to the fact that it will not be required in future.

Authorized automobile dealers have been advised not to invoice the sales tax on sales made to purchasers who are holding a registration certificate in the “FN” category.

Reg. 0-34—continued

It is understood that you will remit the provincial and municipal sales taxes directly to the Automobile License Bureau according to the locality where the operator is domiciled.

It is also understood that you will be held to remit the tax directly to your suppliers in Quebec on purchases of parts, accessories, tires, etc., used for the repairs of rented automobiles in Quebec.

Should it happen that you purchase parts, accessories and tires to repair automobiles rented in Quebec from suppliers carrying on business outside the Province of Quebec, you will be held to report the tax on such purchases through the medium of your sales tax return forms in conformity with the dispositions of article 5 of the Act.

Will you please return or destroy the old certificate bearing a "P" license.

[¶ 8635]

2-01.1. Acetylene, Oxygen and Hydrogen.—Sales of acetylene, oxygen and hydrogen for industrial or domestic purposes, or to be used to render services, are subject to the tax.

When used for manufacturing purposes they are subject to the tax as they do not form a component part of the manufactured product.

[¶ 8640]

2-05. Articles Used by Persons Who Have Bought or Manufactured Them for Resale.—When certificate holders buy or manufacture articles for resale, and utilize or consume these articles themselves, whether for commercial or personal use, they must include, in their monthly sales tax reports, the tax on the cost price of these articles or on the cost of materials utilized to manufacture them.

[¶ 8645]

2-06. Used Articles.—The sale of used merchandise for any consideration whatsoever is subject to the tax.

[¶ 8650]

2-07. Associations.—Associations, clubs, fraternal and patriotic societies, etc., who distribute free of charge or sell to their members, on a non-profit basis, medals, insignias, do not have to secure a registration certificate and are not held to collect the tax from their members, but they must pay the tax directly to their suppliers on all their purchases.

[¶ 8655]

2-10. Registration Certificates.—Every person who operates any type of business, or operates a manufacturing establishment, or operates a business establishment to render services, or does repair

work for which he uses movable property, or undertakes by contract the construction, repair or improvement of immovable property, or carries on a trade which requires or comprises the sale and delivery of movable property, is considered to be a vendor and he must obtain a registration certificate, which may be obtained free of charge.

"Person" includes an individual, a firm, a company, a corporation, an association or persons, an estate, a sequestrator, a trustee in bankruptcy, a liquidator, a fiduciary trustee, an administrator or an agent.

The request for the certificate of registration must be sent to the Director of the Sales Tax Service, on a form furnished for this purpose, (form RG-1).

The person making the request must indicate clearly the name under which he carries on his business, the type of business, trade or enterprise, the date of the commencement of business and all other information that the Director of the Sales Tax Service may require.

In addition to the application form RG-1, the person making the request must complete a form entitled "Report of Purchases" (form RG-5), showing all the purchases of machinery, furniture, tools, equipment and all other articles used for the carrying out of his business or trade. The purchase price of the machinery, each piece of equipment, tools, etc., must be indicated, and a remittance covering the payment of the tax, which has not been paid to the suppliers at the time of purchase, must be made at the same time as when the Report of Purchases is filed with the Sales Tax Service. On form RG-5, must be mentioned not only the articles on which the tax was not paid to the suppliers, but also those on which the tax was paid at the time of purchase.

If the business is or might be conducted at several places in the Province, a registration certificate must be obtained for each business location.

On receipt of the application form RG-1 for registration, the Sales Tax Service will send a registration certificate, free of charge, authorizing the person making the request to carry on the business for which the certificate is issued.

It is not necessary to renew the certificate each year. It will remain in force until it is revoked or annulled by the Minister of Revenue.

The certificate is not transferable. Only the person in whose name the certificate is issued may use it for business purposes and, moreover, he may use it only for the purpose of conducting business in the establishment named on the certificate.

Reg. 2-10—continued

The certificate must be posted in the establishment in such a manner that it will be easily seen by the customers. In the case of a person held to collect the tax having no place of business, the certificate must be placed on or attached to the "Stand" or vehicle used for distributing or selling purposes. If the certificate cannot be placed as indicated above, the person doing business in the Province must retain the said certificate on his person at all times, and show it when requested to do so by any purchaser or any officer of the Sales Tax Service.

When a vendor changes his address, he must return his certificate immediately for correction.

When a vendor changes the name or nature of his business, he must return his certificate and request a new one.

When a vendor ceases to do business at the place of business for which the certificate has been issued to him, the certificate becomes annulled and must be returned to the Sales Tax Service within 15 days after the date of the cessation of business.

When a certificate is lost or destroyed, a request for a copy must be made immediately.

When an individual incorporates his business, a new certificate must be obtained.

Similarly, when a corporation or a partnership is dissolved in order that the business may be conducted by an individual, a new certificate must be obtained. In the case of the dissolution of a partnership following the death of one of the partners or other reasons, the surviving partner or partners must obtain a new certificate. Liquidators and the legal representatives of deceased persons may, while they are so authorized legally, continue to do business by retaining the already existing certificate, but they must immediately inform the Sales Tax Service of their appointment.

A person who regularly sells movable property and who neglects to obtain a registration certificate contravenes the provisions of section 3 of the Act.

[¶ 8660]

2-11. Accounting System to be Kept by Collecting Agents.—Order of the Honourable, The Minister of Revenue, concerning the system of accounting and files to be kept by manufacturers, contractors, importers, vendors, retailers and every other person who acts as mandatary of the Minister of Revenue for the collection and remittance of the tax collected in virtue of the Act imposing a tax on all retail sales within the Province (R.S.Q., 1941, c. 88 and amendments).

I, the undersigned, Eric W. Kierans, Minister of Revenue of the Province of Quebec, acting under the authority of paragraph 3 of section 14 of the *Retail Sales Tax Act*, (R.S.Q., 1941, c. 88 and amendments), order that every manufacturer, contractor, importer, vendor, retailer and every other person acting as mandatary of the Minister of Revenue, under the *Retail Sales Tax Act*, must:

A. Keep, at his principal place of business in the Province of Quebec, an accounting system and complete documents which would enable the officers of the Department of Revenue, acting under the authority of paragraph 4 of article 14 of the *Retail Sales Tax Act*, to control the amount of tax collected as well as the exactitude of the remittances made.

B. With regard to purchases, have in his possession the necessary books and documents which would assure the control of the following information:

1. Full particulars of each and every purchase for purposes of resale, whether the purchase price has been paid or not;
2. Full particulars of each and every purchase for purposes of use or consumption and not for re-sale, whether such purchases be subject to the Sales Tax or not.

C. With regard to sales, have in his possession the necessary books and documents which would assure the control of the following information:

1. Full particulars of each and every sale made for cash or on credit, whether such sale be subject to Sales Tax or not;
2. Full particulars of each and every sale made for cash or on credit, to persons who purchase for purposes of re-sale, as well as the name, address and registration number thereof;
3. Full particulars of each and every sale, for cash or on credit, made for use or consumption purposes to holders of a Registration Certificate the number of which is ended by the letter "P". The seller (mandatary) must account for the name, address and registration number thereof;
4. With regard to merchandise sold and shipped outside the Province for use or consumption outside the Province, the exemption contemplated by paragraph "r" of article 12 of the *Retail Sales Tax Act*, will only be allowed in such cases where it is possible for the mandatary to substantiate all facts regarding these sales. It must be possible for the auditor of the Sales Tax Service to establish, according to the books and records, the amount of each of these sales, the name and address of the purchaser, as well as to which the merchandise has been shipped. Furthermore, he must keep available for inspection

Reg. 2-11—continued

every voucher and document pertaining to these sales, such as sales invoices, shipping bills and delivery receipts signed by the purchaser.

D. Keep in his possession all purchase invoices, sales invoices, shipping bills, delivery receipts, cancelled cheques, letters, statements of account, financial statements and such other books and documents which would be requisite to the ultimate control of the amount of tax collected for each sale and the tax remittances made by the manufacturer, contractor, importer, vendor, retailer or any other person acting as mandatary of the Minister of Revenue. He must not destroy any book or document without first having obtained a written authorization from the Deputy Minister of Revenue of the Province or the Director of the Sales Tax Service.

E. He must keep his accounting from day-to-day in such a manner as to be able to give all the information herein above required.

[¶ 8665]

2-12. Use of Registration Certificates.—1. *Merchandise Purchased for Resale Purposes for Incorporation to a Finished Product.*—Holders of sales tax registration certificates must use their ordinary registration number to purchase, free of tax, merchandise, for resale purposes or merchandise which will be used in, wrought into or attached to other merchandise for resale purposes. They must, at the time of each purchase, quote their sales tax registration number.

Manufacturers, wholesalers, distributors and all vendors do not collect the tax on merchandise sold to holders of sales tax registration certificates who buy for resale purposes. They must, however, justify the non-collection of the tax by showing on their invoices the sales tax registration number of the purchaser.

In a case of doubt, as to the purpose for which the merchandise is purchased, manufacturers, wholesalers, distributors and all vendors may require a written confirmation from the purchasers to the effect that the merchandise, purchased under registration numbers, is for resale purposes or for further incorporation into other merchandise, for the purpose of resale.

2. *Merchandise Purchased for Use or Consumption.*—Holders of registration certificates who utilize their registration numbers to purchase, free of tax, merchandise that is not to be resold or to be incorporated into other merchandise for resale purposes, commit an offence against the Act and are liable to the penalties provided for in the Act. They shall also have to remit the tax due.

Holders of sales tax registration certificates cannot utilize their sales tax registration certificate to purchase, free of tax, merchandise of which they are the ultimate consumers or users.

Manufacturers, wholesalers, distributors and all vendors must collect the tax when they sell merchandise for the ultimate consumption or use of the purchaser.

However, by exception, certain holders of registration certificates, the numbers of which are identified by the letter "P", are authorized to utilize their registration certificates to purchase, free of tax, merchandise for resale purposes and merchandise of which they are the ultimate consumers or users. These holders of sales tax registration certificates will declare, through the medium of their monthly sales tax returns, the value of the merchandise purchased for their own use or consumption, and will remit to the Minister of Revenue the tax due on such purchases.

3. *Merchandise for Consumption or Use Purchased from Vendors Having their Place of Business Outside of the Province.*—Under the provisions of the *Retail Sales Tax Act*, any purchaser, residing or having his place of business in the Province, is obliged to pay directly to the Minister of Revenue the sales tax exigible on all merchandise purchased, for consumption or use, from vendors residing or having their place of business outside of the Province.

[¶ 8670]

2-13. Maintenance Contracts.—When a person enters into a contract to maintain in good order, during a certain period of time, movable or immovable property, in virtue of a guarantee, or in consideration of a fixed price or periodical payments, and undertakes to do all necessary repairs without supplementary costs, he is considered to be the consumer of the materials utilized in the execution of the contract and he must pay the tax on such materials.

However, when the cost of materials is not included in the contract and when they are invoiced separately, the tax must be collected from the customer on the retail sale price.

The above ruling does not apply in the case of services rendered or spare parts supplied in virtue of a guarantee resulting from the sale of movable property.

[¶ 8675]

2-14. Repairs to Movable Property.—Persons who make repairs to movable property, must obtain a registration certificate. They must collect the tax on the total amount of the invoice, unless the value of the material is shown separately. In this latter case, the tax must be collected on the value of the material only.

However, when the value of the material used to make the repairs is negligible compared to the charge for labour or services, and when the value of the material is not shown separately, on the invoice, the

Reg. 2-14—continued

persons making the repairs are considered to be the consumers of the materials so used. This is the case for jewellers, watchmakers, goldsmiths, tailors, blacksmiths who use or consume material which is not customary to invoice separately. They do not collect the tax from their customers, but they must pay, each month, through the medium of their monthly report, the tax on the material used to effect their repairs. When these persons sell materials or manufactured products, they must collect the tax on the total amount of the invoice.

When the customer supplies his own material, these persons only render a service and the tax is not exigible on such services.

[¶ 8680]

2-15.1. Rural Electrification Co-operative Societies.—They must secure registration certificates and must collect the tax from their members and other consumers on the net amount of their invoices and remit monthly.

They must pay the tax directly to their suppliers on all the equipment which they utilize in rendering their services.

[¶ 8685]

2-16. Vending Machines.—Persons who operate mechanical selling devices which deliver merchandise upon the insertion of coins or tokens, are liable for the payment of the tax on the retail sales price of merchandise sold through these devices and must obtain a certificate of registration.

The owners of such devices are considered to be the vendors of the merchandise distributed through the devices.

When the devices are leased, the lessees are considered to be the owners for purposes of collection and remittance of the tax.

If the price of each article so distributed exceeds ten cents, the tax must be calculated at the prevailing rate in the territory where the machine is located.

The owners or lessees operating these devices must keep accounting records which indicate in a precise manner the territory where each machine is located, the date of installation in each territory, the amount of money obtained through each machine, also a register showing purchases and sales of merchandise made through these machines.

The owners must pay sales tax on the purchase price of such devices or machines which they operate.

[¶ 8690]

2-17. Undertakers.—These persons sell merchandise at the same time as they perform services. They must secure registration certificates and must collect the tax from their customers on the full amount of their invoices whenever they demand a lump sum for their services and for their merchandise. When the price of the services provided and the merchandise sold are indicated separately on the invoice, the tax is due on the merchandise sold only.

Undertakers must pay the tax to their suppliers on their purchases of ambulances, hearses, cosmetics, equipment, materials and liquid preparations used for embalming, on ornaments for church and funeral parlours, and on all other movable effects bought for their own use or consumption.

[¶ 8695]

2-19.1. Games of Chance or Skill Conducted at Bazaars, Circuses, Carnivals, Picnics, Festivals and Public Gatherings.—Merchandise given as samples, gifts, or prizes for games of chance or skill are considered to be consumed by the donor who must pay the tax on his purchase price as well as on any machines, furniture, etc., used in carrying on such games or raffles. The donor must pay the tax on the value of coupon books or credit cards given in lieu of merchandise, unless it is clearly indicated on the coupons or credit cards that the tax is payable when they are exchanged for merchandise.

[¶ 8700]

2-20. Merchandise Damaged or Destroyed in Transit.—When merchandise is damaged in transit after it has become the responsibility of the purchaser, the tax is applicable on the selling price. When merchandise is damaged in transit, while it is still the responsibility of the vendor, the tax shall apply only to that price paid by the purchaser to the vendor for the damaged merchandise. Should the merchandise be destroyed, the tax shall not apply to the amount of the damage paid to the vendor by the transportation company.

[¶ 8705]

2-21. Returned Merchandise.—When the vendor grants a refund or a credit to his customer for merchandise returned, he may reimburse to him the tax paid on such merchandise.

In the case of sales on credit or instalments, when the merchandise has been accepted by the purchaser and when the vendor afterwards repossesses same because the purchaser has neglected or refused to effect his payments, the tax may not be refunded.

Reg. 2-21—continued

When defective merchandise is returned and the vendor replaces it with other merchandise without demanding additional payment, there is no additional tax to be collected.

When the vendor accepts the defective merchandise in part payment of merchandise which he sells to replace the first, he must collect the tax on the price demanded which constitutes the balance of payment.

When the vendor resells the merchandise which has been returned by the purchaser, or which he has repossessed because the purchaser has neglected or refused to effect his payments, he must collect the tax on the selling price.

[¶ 8710]

2-23. Purchase or Reorganization of a Business.—The purchaser of a business or the owner of a reorganized business must pay the tax on all the movables which are not for resale or which are not otherwise exempted. The purchase price of the enterprise includes stocks, bonds, obligations, the value of services rendered, or other consideration accepted by the vendor as the price of the thing covered by the contract of sale.

The purchaser of an enterprise should ascertain from the office of the Sales Tax Service that no tax is due by the vendor and that his returns have been filed to the satisfaction of the Sales Tax Service. If the purchaser neglects to do this, he will be held responsible for the payment of any tax which has not been paid or remitted by the former owner.

The purchaser of an enterprise must obtain a registration certificate, immediately inform the Director of the Sales Tax Service of the name and address of the vendor, the total price paid for the enterprise, and the price paid for the movables which are not for resale.

He must remit the tax on all movables which are not for resale, based upon the values indicated in form RG-5, which is exigible at the time of registration.

[¶ 8715]

2-24. Overpayments and Refunds.—When undue sales tax is collected or paid by a registration certificate holder, by error, a demand for refund may be made by letter to the Director of the Sales Tax Service who will in turn request reimbursement from the Deputy Minister of Revenue.

Holders of registration certificates may not deduct such overpayments from their monthly remittances, unless authorized to do so in writing by the Director of the Sales Tax Service.

[¶ 8720]

2-25.1. Merchandise Sold and Delivered in a Taxable Territory to Purchasers Residing Outside of Said Territory.—Persons buying and taking delivery of merchandise for their own use or consumption in the Province, must pay the Provincial Sales Tax, even though they may be able to prove to the vendor that they do not reside in the Province.

The same principle applies in respect to the collection of municipal and school sales taxes.

The *Retail Sales Tax Act* provides that the merchandise must be shipped by the vendor outside of the Province or municipal territories, according to the case, in order that such taxes may not be exigible. However, the vendor must keep on file a shipping document to justify the non-collection of these taxes.

Vendors who neglect to collect the taxes, where such taxes are exigible, violate the law and are liable for the penalties provided therein.

[¶ 8725]

2-25.4. Merchandise Sold and Delivered Outside of a Territory Subject to a Municipal Sales Tax.—Paragraph *r* of article 12 of the *Retail Sales Tax Act* specifies that the Act does not apply to sales made by any person carrying on business, when the merchandise thus sold is shipped outside of the taxable territory, *for consumption or use outside of said territory*.

The vendor must keep on file a shipping document to justify the non-collection of these taxes and furthermore he is in the obligation to ascertain:

- (a) That the purchaser resides outside of the territory where the sale took place.
- (b) That the merchandise purchased will be used or consumed outside of said territory.

In cases of doubt, the vendor must require from the purchaser a written declaration certifying that his domicile is situated outside the territory concerned and that the merchandise purchased will be used outside of said territory.

In the absence of satisfactory documents, the vendor will be held responsible for the tax not collected.

[¶ 8730]

2-28. Reports.—Within the 15 days following the expiration of each calendar month, all persons holding a registration certificate must file a report and, at the same time, remit the tax collected on all the taxable sales made during the course of the month.

Reg. 2-28—continued

The report form is sent to each certificate holder towards the end of each month, for the current month. The registration number of the vendor, his name and address are printed on the form as well as the month for which the vendor makes the report. The vendors who possess several certificates must use a report form for each place of business to which it refers, otherwise the tax remitted may be credited to the wrong account.

The onus lies upon the vendor to obtain the forms prescribed by the Act, and the fact of not having obtained them does not excuse in any way the vendor who neglects to make the reports. The certificate holders who, at the end of each month, have not received a report form, must immediately inform the Sales Tax Service.

The report forms must be signed by the owner or the manager of the establishment or by his accountant and must show the following details:

- (a) The total amount of sales made during the period.
- (b) The total amount of taxable sales made during the period.
- (c) The amount of taxable sales made outside of the territories subject to municipal and school taxes.
- (d) The amount of taxable sales made in each municipal territory.
- (e) The amount of tax collected for the Province, for each municipality and each school commission.

The same details must be given for purchases upon which the tax is due. All merchandise acquired for resale purposes, but utilized or consumed by the vendor or his family, must be included in the amount of taxable purchases for own use or consumption.

Reports must be filed for certain months during which no taxable sales or taxable purchases have been made.

A report must be made for each month during which the vendor operates his business, even though he may have no tax to remit. Consequently, if the vendor has made no taxable sales during the course of a certain period, he must make a declaration to that effect on the report form, and return same to the Sales Tax Service on or before the 15th day of the following month.

However, persons operating more than one branch of the same business may be authorized by the Sales Tax Service to make a consolidated report on the forms prescribed by the Minister of Revenue and the report must indicate:

- (a) The address of each place of business.
- (b) The amount of tax collected in each branch.

- (c) The date of the closing of branches.
- (d) The date of the opening of all new branches operated in the Province.

When a person sells or winds up his business, he must immediately return his certificate to the Sales Tax Service, indicating his new address and details relative to the disposal of his merchandise and his moveable property. He must, within 15 days following the closing of his business, report the tax which he has collected and any tax on the purchases, for the period elapsed since his previous report.

All correspondence must be addressed to the Sales Tax Service and the envelopes must be stamped.

Reports must be signed by an authorized person and dated.

Cheques, money orders, etc., must be made payable on presentation to the order of the Minister of Revenue.

Post-dated cheques are not accepted.

All correspondence must show the vendor's registration certificate number.

[¶ 8735]

2-30. Calculation of the Tax.—The tax must be computed separately on each sale. It is not permissible to compute the tax on the total amount invoiced during a month or any other period. A fraction of a cent is counted as a cent.

[¶ 8740]

2-32. Telephone Service.—Telephone service is subject to the Provincial, Municipal and School sales taxes, where applicable, whether it is provided by public utilities or by private enterprises.

Charges for installing a telephone service or changing its location are not subject to the tax.

When the amount paid for telephone service is based on a fixed rate or is determined by a method of distribution of cost among subscribers, (by assessment), the tax applies on the total amount paid for the service.

The tax is not exigible on long distance telephone calls nor on calls made through public telephones.

The ruling, in virtue of which certain manufacturers pay on a percentage basis the tax due on purchase made for use or consumption, does not apply to the tax due on telephone service. All manufacturers must pay to the telephone companies the tax exigible on charges made for telephone service.

Reg. 2-32—continued

Telephone companies must collect the tax from all their customers with the exception of those who in virtue of Article 12 of the Act, are exempted:

Telephone companies must pay the tax on all their purchases of poles, insulators, cable or metallic wire, transformers, machinery and tools used or consumed to render their services, as well as on all other movable property purchased by them for use or consumption.

[¶ 8745]

2-36. Credit and Instalment Sales.—The sales tax must be collected on the total selling price, comprising the amount received in cash and any other part of the selling price which remains to be paid.

Whatever the terms or the conditions of a sale may be, the tax is always payable at the time of the sale. Persons who sell for credit or for payment by instalments must pay the tax to the Minister of Revenue as if the full amount of the selling price had been collected immediately. If this selling price or the balance of this selling price is not collected eventually, they may not claim any deduction from the Provincial Revenue Department nor any reimbursement of the tax.

All holders of registration certificates must report all sales made for cash, on credit, or by instalments, which have been effected during each month, and must pay the tax due on these sales.

[¶ 8750]

2-38. Purchase of an Automobile by the Employer for his Employee.—The tax is exigible only once in the case where the registration is in the name of the employer and subsequently transferred to the employee. At the time of registration, the employer must make a declaration to the Sales Tax Service to the effect that the automobile was purchased to be used by the employee, and that the automobile was registered in his name in order to have a lien on the automobile.

On production of such a declaration the Sales Tax Service will authorize the transfer without exacting the tax a second time.

[¶ 8755]

2-39. Incorporation of Companies.—When a company is formed to take over an existing business operated by a partnership or an individual, the company is entirely distinct from its members and is liable for the payment of the tax on the purchase price of the movable property acquired from the partnership or the individual.

[¶ 8760]

2-40. Raffles and Drawings.—Merchandise given at raffles and drawings, is considered to be consumed by the donor who must pay the sales tax on its purchase price.

[¶ 8765]

3-01. Jewellers, Watchmakers, Goldsmiths, Enamellers, Tinsmiths, Platers, Polishers and Welders.—These persons must secure registration certificates. In the execution of repairs, they use materials which are not usually invoiced separately. They are considered to be the consumers of these materials and are not to collect the tax from their customers for these repairs, but must pay the tax themselves directly to the Minister of Revenue on the materials which they purchase in order to effect these repairs. They must, moreover, pay the tax on the furniture, instruments, tools and machines which they purchase for use in their trade.

When these persons sell materials which they have bought, or movable objects which they have manufactured, or on which they have done some work, they must collect the tax on the total selling price, without separating their cost of labor from the material for the purpose of calculating tax.

[¶ 8770]

3-02. Carriage-Makers, Stuffers, Taxidermists, Machinists, Mechanics and Locksmiths.—These persons must secure registration certificates and pay directly to their suppliers the tax on purchases of machinery, tools, instruments and all other movable effects for the needs of their trade.

They make repairs or improve movable property and must collect the tax on the full amount of their invoices, unless the price of the materials and the work performed are indicated separately. In the latter case the tax is to be collected on the price of the materials only.

Whenever they sell movable objects of their own manufacture or on which they have done work, they must collect the tax on the whole of the selling price, without separating their work from the materials for the calculation of the tax.

[¶ 8775]

3-03. Kennels, Stables and Domestic Pet Shops.—Persons who operate domestic pet shops, kennels or stables in which animals are boarded and fed must obtain registration certificates.

They are considered to be the consumers of the merchandise which they use or consume for the needs of their business and must pay the tax on the purchase price of this merchandise.

The sale of horses (except horses sold to bona fide farmers) dogs, birds, goldfish and other domestic animals are subject to the tax, unless they are made to persons who buy these animals for resale purposes.

Reg. 3-03—continued

Medicaments for animals are subject to the tax, unless they are delivered or sold under the prescription of a veterinary surgeon.

Hay, oats, grains and all animal food is not subject to the tax.

[¶ 8780]

3-08. Auctioneers.—Auctioneers must secure registration certificates. They sell merchandise in their own name or for the account of other persons, and must collect the tax from the purchasers, except in cases of sales by judicial authority.

Whenever they act as agents or employees of another person who is the holder of a registration certificate, and conduct the sale in his name and in his establishment, they must collect the tax and remit to him, and the latter will himself pay it to the Minister of Revenue when he makes his monthly return.

Whenever they conduct sales in their own names and in their own establishments, or whenever they act as agents of persons who are not holders of registration certificates or merchants who reside outside of the territory, they must collect the tax and pay it directly to the Minister of Revenue.

[¶ 8785]

3-10.1. Electric Signs.—Persons who install electric signs effect sales of finished products and must collect the tax on the whole of the invoice price.

When the invoice price includes services for upkeep, the tax is to be collected on the full amount of the invoice, including the cost of such services. When the price of upkeep is invoiced separately there is no tax to be collected for such upkeep, but the contractor must pay the tax on all the materials utilized by him.

When the services for the upkeep of the signs sold or rented do not include the cost of the materials utilized for that upkeep, and when these materials are charged to the customer in the invoice, the latter must pay the tax on these materials as being the consumer of them.

[¶ 8790]

3-11. Sign Manufacturers and Sign Painters.—Manufacturers and painters of signs must secure registration certificates. They must pay directly to their suppliers the tax on machinery, tools, instruments and all other articles which they purchase for use.

When they manufacture or paint signs on cardboard, wood, metal sheets, cotton, etc., which they sell as finished products, they must collect the tax on the whole of the selling price.

When they paint signs on immovables or on posters or placards or other materials furnished by the customer or on any other movable objects belonging to him, they then perform services and utilize for these services materials which are not usually invoiced separately. They are considered to be the consumers of these materials and are not to collect the tax from their customers, but must pay it themselves on the paint and all other materials which they employ.

[¶ 8795]

3-12. Florists.—Florists must secure registration certificates. When they sell flowers, plants, shrubs, wreaths, corsages or bouquets to consumers or users, they must collect the tax.

Sales made by one florist to another florist for purposes of production or resale are not subject to the tax.

When a florist carrying on business in the Province takes an order to deliver flowers within the Province and gives, by telegram, or otherwise, instructions to a second florist, whose business is also in the Province, to deliver the flowers, the florist who receives the order must collect the tax on the total price of the sale and remit it.

When a florist carrying on business in the Province of Quebec takes an order for flowers to be delivered outside the Province and gives, by telegram or otherwise instructions to a second florist whose business is outside the Province to deliver the flowers, he is considered to make a delivery outside of the Province and does not collect the tax from his customer.

When a florist carrying on business in the Province receives such instructions from another florist carrying on business either in or outside the Province, he is considered to sell flowers to this other florist for purposes of resale, and the tax does not apply on this sale.

When a florist sells shrubs, plants, trees, etc., and transplants them in consideration of a lump sum or fixed price, the tax applies on the total amount of the transaction. The labor charge cannot be deducted for the calculation of the tax, unless a contract has been drawn up specially for these services or unless the price of the services is invoiced separately.

The oil and electricity used by the florist for heating and lighting greenhouses are subject to the tax.

This ruling also applies to nurserymen and horticulturists who retail flowers, trees, shrubs, plants, etc., which are not produced through the pursuit of their undertaking.

[¶ 8800]

3-13.3. Garages, Gasoline Filling Stations, Vulcanizing Shops.—

Garage, gasoline filling station operators, retreaders and recappers, repairers of automobiles must secure a registration certificate.

When they effect repairs or furnish services and utilize materials during such operations, including the retreading and recapping of tires, they must collect the tax on the full amount of the invoice, unless the price of the materials is indicated separately therein. In the latter case, the tax must be collected on the price of the materials only and not on the work performed.

However, by exception to the general rule, persons who undertake, for a fixed price or on a time and material basis, to paint automobiles or part of them or grease automobiles, repair punctured tires and inner tubes (flats), they are considered to render services and to be the consumers of the materials used in rendering their services, such as paint, grease, uncured and cured tire and tube repair materials, including self curing and instant type patches, rubber plugs, cold patching cement and other products used for minor repairs to tires and inner tubes. These persons do not collect the tax from their customers, but must pay the tax directly to their suppliers on the purchase price of the materials used in rendering their services.

They must pay to their suppliers the tax on all purchases of tools, machinery and automobiles as well as the materials used for the upkeep of these articles.

They must also pay directly to their suppliers the tax on purchases of oxygen, acetylene, hydrogen and all other merchandise used in their trade.

When they sell accessories, automobile parts, tires, batteries, oil, anti-freeze and any other sort of merchandise, except gasoline and kerosene, they must collect the tax.

When they render services which do not involve materials, no tax is exigible.

[¶ 8805]

3-19.1. Bookbinders.—Bookbinders must secure registration certificates and collect the tax on the total price of the sale of accounting books, minute books, registers and other books of the same kind.

Bookbinders who bind or repair printed books for customers do not collect nor pay the tax on the materials used to render their services as such materials form a component part of the printed books, which are not subject to tax under the provisions of the Act.

They must pay the tax directly to their suppliers on purchases of instruments, machines and all other articles which they purchase for use in their trade.

[¶ 8810]

3-20.4. Restaurants and Cafes.—Persons who operate restaurants or cafes must secure registration certificates. They are not to collect the tax on the meals which they serve or on sales of foodstuffs other than candies, chocolates and bonbons.

Ice cream, sundaes and sherbets are considered to be foodstuffs and consequently not subject to the tax. Tea, coffee and coffee substitutes, cocoa, beer and porter are not subject to the sales tax.

Restaurant and Cafe operators must collect the sales tax on all other merchandise sold including cigarette paper and tubes.

The tax must be collected on soft drinks, including orangeade, lemonade, mineral water and soda water, when sold for a price exceeding 10 cents.

However, soft drinks served with meals for a price of \$1.25 and over, or served with spiritous liquors are not subject to the Sales Tax since they are already subject to the 6% Meals Tax.

Restaurant and Cafe operators are also subject to the sales tax on purchases of merchandise of which they are considered to be the consumers or users, such as glassware, cutlery, crockery, tables, chairs, counters, scales, cash registers and all other merchandise used or consumed in the course of their business operations.

Restaurant and Cafe operators are also subject to the payment of the sales tax on purchases of paper drinking cups, paper plates, straws, paper napkins, toothpicks, wooden coffee stirrers, portion cups, butter chips, milk caps, paper place mats, paper doilies, paper soufflé or portion cups, paper and aluminum foil paper chips, stoves, kitchen utensils and other items of the same nature, which they use for the purpose of their trade.

3-20.4a. Goods for Consumption Purposes—*Notice to manufacturers, manufacturers' agents and wholesalers.*—Sales tax must be collected by manufacturers, manufacturers' agents, wholesalers and all other suppliers of the goods hereunder mentioned from holders of Registration Certificates identified by the letters B, NA and NB, since these persons are usually buying for their own use, not for resale purposes.

Doilies of all kinds.

Drinking cups of all kinds.

Napkins of all kinds.

Paper and aluminum foil paper chips.

Place mats of all kinds.

Plates of all kinds.

Portion cups for butter, jam, etc.

Reg. 3-20.4a—continued

Stirrers of all kinds.
Straws and toothpicks.
All other similar goods.

[¶ 8815]

3-23. Tailors, Dressmakers, Milliners and Furriers.—These persons must secure registration certificates and must collect the tax on their sales of finished products. The cost of labor may not be deducted from the total amount of the invoice for the calculation of the tax. When a customer furnishes his own materials, they provide him with work only and have not to collect the tax on such work.

When they execute repairs, they must collect the tax on the whole amount of the invoice, unless the materials and the work provided are indicated separately. In the latter case, the tax is to be collected on the materials only. When they execute repairs in which no materials enter, there is no tax to be collected.

When they make use of materials such as buttons, thread, etc., which are not usually invoiced separately, they must pay the tax on these materials. They must also pay the tax on the machines, parts of machines, needles, instruments, tools and all other articles which they purchase for the purposes of their business.

[¶ 8820]

3-24. Monument Dealers.—Dealers in monuments, tomb stones and other articles of the same nature are vendors. They must secure registration certificates and collect the tax on the selling price of the finished product. The tax applies on the total price obtained from the customer for an installed monument and the cost of labor may not be deducted from the total amount of the invoice for the calculation of the tax, even if it appears separately on the invoice.

However, contracts for the erection of mausoleums are undertakings for the construction of immovable property. When contractors undertake such contracts in consideration of a fixed price they are considered to be the consumers of the materials used and they themselves are subject to the payment of the tax on the purchase price of all such materials. If the contracts are executed in consideration of a time and material or cost plus basis, they then purchase the materials for resale, and they must collect the tax from their principals on the price they demand for the materials used.

[¶ 8825]

3-25.1. Ready Mixed Concrete.—Manufacturers, contractors and any person who prepare and make sales of ready-mixed concrete must obtain a registration certificate and collect, from the purchaser for remittance to the Revenue Department, the sales tax computed at the rate prevailing in the territory where such concrete is delivered; this rate must be applied on the retail sale price of the ready-mixed concrete. Sale price is that which is defined in the *Retail Sales Tax Act*.

[¶ 8830]

3-26. Farm Settlers Receiving Government Grants.—The Colonization Department allows grants to settlers. Instead of issuing cheques to cover such grants, the settlers are authorized to purchase from their local suppliers, what they need for their farm and the Government pays the suppliers.

No sales tax is exigible when it is clearly proved that such purchases are paid directly to suppliers with Government funds.

In all other instances, the Law applies and the purchase of movable property of a taxable nature made by settlers is subject to tax.

[¶ 8835]

4-05.1. Calculation of Percentage of Sales by Manufacturers.—In computing the proportion of sales, manufacturers shall only take into consideration the sales of products manufactured by themselves in a manufacturing plant situated in the Province of Quebec.

Unless the sworn declaration mentioned under item No. 3 of regulation No. 4-05 is received on or before the 30th of April each year, 100% of the tax will be exigible on purchases for own use or consumption.

[¶ 8840]

4-05.2. Manufacturers.—Manufacturers do not have to pay sales tax on merchandise which forms a physical component part of the products which they manufacture, but must pay the tax on purchases of merchandise of which they become the consumers.

The machinery, tools, and all materials used for maintenance, machinery, equipment used for manufacturing purposes, office equipment (Printed books and periodicals excepted) and articles of publicity and all other materials and merchandise used by the manufacturers which do not form a component part of the products which they manufacture are subject to the tax.

Molds, forms, patterns, or designs used for the fabricating of merchandise are subject to the tax whether they have a character of permanency or lose their usefulness after having served in the production of one particular object or series of objects. Manufacturers must pay the tax on the purchase price of these molds, forms, patterns or on the cost of materials used if they manufacture them themselves.

[¶ 8845]

4-05.3. Petroleum Products, Gas and Electricity Used by Manufacturers.—When petroleum products, gas and electricity are used by manufacturers as agents for the transformation or manufacture of a product by contact, temporary incorporation or other process, these commodities are not subject to the tax.

However, they are subject to the tax when they are used for lighting, heating or ventilating of buildings, refrigeration and for the

Reg. 4-05.3—continued

production of motive power, for the transportation of persons or handling of merchandise by means of elevators, conveyers, trucks, cranes, etc., or when they are used for any purpose which does not constitute a manufacturing process.

Distributors of petroleum are authorized to invoice manufacturers free of tax, even if such manufacturers are not holders of a registration certificate ending with the suffix "P" provided that such manufacturers confirm that their purchases of petroleum products are made for manufacturing purposes as herein above described.

In certain cases, however, the manufacturers will not be able to certify that the entire quantity of petroleum purchased is to be used for manufacturing purposes. In such cases, it is incumbent upon the manufacturers to declare in their monthly sales tax reports the amount of tax due on petroleum utilized for other purposes.

Petroleum means all petroleum products with the exception of gasoline and kerosene, (coal oil).

Fuel oil consumed to create steam for manufacturing purposes, is not subject to tax.

[¶ 8850]

4-05.4. Manufacturers Who Contract to Install on Immovable Property Materials Which They Fabricate Themselves.—When manufacturers perform contracts on immovable property in consideration of a fixed price and use materials which they fabricate themselves, they are held to keep a separate record of the value of materials used in the execution of such contracts.

The price obtained through the execution of these contracts on immovable property must not be included in the compilation of their total sales of materials fabricated in the calculation of their percentages of sales relative to Order in Council No. 461.

[¶ 8855]

4-06.1. Mining Companies.—They are subject to the tax on all taxable purchases made for own use or consumption, such as: explosives, acids, lead nitrate, lime, zinc oxide, drilling-machines, conveyers.

[¶ 8860]

4-06.2. Petroleum, Gas and Electricity Used by Mining Companies.—When petroleum, gas and electricity are used by mining companies as direct agents for production, these products are not subject to tax.

However, they are subject to tax when they are used for lighting, heating or ventilating of buildings, refrigeration and for the production of motive power, for the transportation of persons or handling of movable objects by means of elevators, conveyors, trucks, cranes, etc., or when they are used for any purpose which does not directly concern production.

[¶ 8865]

4-06.3. Diamond Drilling—Mines.—Companies carrying on drilling operations for the account of mining companies and exploration companies having claims located in the Province of Quebec will request and secure a registration certificate which number will end with the suffix “P” and will also remit sales tax on their purchases made for own use or consumption directly to the Sales Tax Service.

This directive also applies to companies whose Head Office is located outside of the Province of Quebec as they are carrying on business in the Province of Quebec. (Article 5 of the Act, R.S.Q. 1941, chap. 88.)

At the end of every month, the footage drilled in the Province of Quebec will be reported on the basis of ninety cents (0.90) for surface drilling and forty cents (0.40) for underground drilling. The tax shall be paid at the prevailing rate in the locality where the drilling is taking place.

This directive will apply to all taxable purchases, such as machinery, tractors, trucks, drill bits, etc., as well as repair parts and components.

It also applies to rented equipment and will be subject to revision at the end of every year.

These instructions supersede all previous regulations.

[¶ 8870]

5-02.2. Contractors and Sub-Contractors Who Undertake for Others the Construction, Repair or Improvement of Immovable Property.—In these regulations, all persons who, as general contractors, as sub-contractors, or as otherwise, undertake for others the construction, repair or improvement of immovable property, are referred to as “contractors”, and the Provincial and/or the Municipal sales taxes are referred to as “the sales taxes”.

Undertakings for the construction, repair or improvement of immovable property are generally executed in consideration of a lump sum, fixed price, unit price, time and material or cost plus basis.

When contractors undertake the construction, repair or improvement of immovable property in consideration of a lump sum, fixed price or unit price basis, they are, in all instances, the consumers of the movable property which they incorporate into such undertakings and of all movable property which they use and consume in the execution thereof, and they themselves are subject to the payment of the sales taxes on the purchase price of all such movable property at the prevailing rate in the municipality where the contract is executed.

When the customer gives two orders to a general contractor or to a sub-contractor, one for the material and one for the erection or installation in consideration of a lump sum price fixed in advance covering the two orders, the undertaking is considered as a lump sum

Reg. 5-02.2—continued

contract or fixed price basis, and the general contractors or the sub-contractors are considered as the consumers of the material which they incorporate into such undertakings and they themselves are subject to the payment of the tax on the purchase price of all such movable property, at the prevailing rate in the municipal territory where the contract is performed.

When the customer gives two orders to a general contractor or to a sub-contractor, one for the material in which case the price is fixed in advance, and the other for the installation or the erection in which case the price is also fixed in advance and separately from the fixed price for the material, the general contractors and the sub-contractors are considered as the vendors of the movable property which they incorporate into such undertakings, and they are held to collect and remit sales tax on the selling price of all the materials involved.

In the case of fixed price contracts the contractors and sub-contractors are liable for the payment of the tax, even if the work is done for:

- (a) The Federal and Provincial Governments;
- (b) Institutions or persons exempt from the payment of the tax on the purchase of movable property, such as hospitals and fabriques or the trustees of a parish;
- (c) Persons authorized to add the suffix "P" to their sales tax registration certificate number.

When contractors undertake the construction, repair or improvement of immovable property in consideration of a time and material or cost plus basis, they are not the consumers and users of the movable property which they purchase to incorporate into such undertakings, but are considered to purchase same for purpose of resale, and they must collect from their principals the sales taxes on the price they demand for such movable property, adhering to the regulations issued concerning the use of sales tax registration certificates.

As contractors execute undertakings on a time and material or cost plus basis and do not confine themselves to lump sum, fixed price or unit price undertakings, they must be holders of sales tax registration certificates.

The registration certificate conveys to contractors the authority to purchase, without paying the sales taxes to their vendors at the time of purchase, building materials and other movable property which are incorporated in undertakings for the construction, repair or improvement of immovable property.

Contractors, who are holders of sales tax registration certificates have to remit, as follows to the Sales Tax Service, at the expiration of each month, the sales taxes due by them or collected by them, depending upon the nature of the undertakings they perform and the respective taxable areas in which the undertakings are executed.

- (a) On the amount of their sales of movable property without installation (direct sales) ;
- (b) On the amount demanded from their principals for the materials incorporated into time and material or cost plus undertakings ;
- (c) On the purchase price of movable property purchased or manufactured by them for incorporation in lump sum, fixed price or unit price undertakings ;
- (d) On the amount of the purchase price of movable property for their own use or consumption, other than building materials, on which for one reason or another the sales taxes applicable thereon have not been paid to their vendors at the time of purchase. In connection with such purchases, contractors must pay the sales taxes to their vendors, and are not permitted to use their sales tax registration certificates.

These directives supersede all previous regulations on the subject, and those that have been added to regulation 5-02 on March 1st, 1958 are no longer valid.

[¶ 8875]

5-02.3. Contractors Who Temporarily Bring Into the Province Their Own Machinery to be Used on a Temporary Basis for the Execution of Contracts on Immovable Property in the Province.—The regulation on rental of movable property cannot be applied as the machinery is not leased. However, since the machinery is used in the Province on a temporary basis, the sales tax shall be levied on the basis of $\frac{1}{3}$ of the value of the machinery when entering the Province, for each period of time the machinery is used in the Province, each such period of time not to exceed twelve (12) months. In all cases the tax will be levied on the full value of the machinery when entering the province, the amount overpaid, if any, to be refunded once proof has been given that said machinery has left the province.

If the movable property is sold, destroyed, totally consumed, or for any other reason not transported outside the Province by the same person who originally brought it into the Province, it shall be subject to the sales tax on its full value at the time of entering the Province.

[¶ 8880]

5-02.4. Contractors as Consumers.—When a contractor undertakes the construction, repair or improvement of immovable property in consideration of a fixed price or unit price, he is, in all instances, the consumer of the materials incorporated into the undertaking and, as such, he must pay the tax on the purchase price of these materials. The contractor must pay the tax on these materials even when same are supplied by the principal and paid for through a deduction from the amount of the contract.

Reg. 5-02.4—continued

This ruling also applies when the materials are supplied by the federal or provincial government, a hospital, a municipal corporation, a school commission or the holder of a "P" license.

[¶ 8885]

5-02.5. Compensation of Contractors.—In accordance with section 11 of the *Retail Sales Tax Act* contractors and sub-contractors are allowed to deduct from their remittance a compensation of 2% granted for the collection of the sales tax on materials invoiced for the execution of contracts on immovable property undertaken on a cost plus or time and material basis, because such contracts are considered as a sale of materials and tax is thus collected from their customers.

On the other hand, section 11 does not provide any compensation for tax remitted on purchases, as is the case for contracts executed on a fixed or lump sum price basis.

[¶ 8890]

6.01. Designers, Painters, Cabinet-Makers, Sculptors.—Sales of drawings, sketches, engravings, sculptures and all other objects of art, furniture, etc., executed on demand, according to specifications or otherwise, are subject to the tax.

Artists, etc., must secure registration certificates and collect the tax on the total sale price.

When such artists, etc., are employed by another person and only receive a remuneration for their work, they have no sales tax to collect.

[¶ 8895]

6-02.1. Architects and Engineers.—Architects and engineers who exercise a trade or a profession and furnish services only do not have to register but must pay the tax directly to their suppliers on all purchases made for own use or consumption.

They must pay directly to the Minister of Revenue, the tax on all purchases made outside the Province.

However, certain engineers who specialize in reinforced concrete and who buy and sell the steel, must register and collect the tax on the retail sale price of the steel.

[¶ 8900]

6-03.1. Dentists and Dental Technicians.—Dentists and dental technicians are considered to be the consumers of all the material which they use for rendering their services. They do not have to

register and are not held to collect the tax from their customers, but they must pay the tax directly to their suppliers on all purchases of platinum, gold, silver, cement, rubber or any other material.

Dentists and dental technicians must also pay the tax to their suppliers on the furniture, machinery, apparatus, instruments and all other articles purchased for the purposes of their profession.

They must pay directly to the Minister of Revenue the tax on their purchases from suppliers whose place of business is situated outside of the Province.

[¶ 8905]

6-07. Doctors, Surgeons.—They are considered to be the consumers of all the merchandise that they buy for rendering their services, or for utilization or consumption in their establishments.

They are not holders of registration certificates and must pay the tax to their suppliers on all taxable merchandise bought for use or consumption, with the exception of medicines which they dispense themselves for the treatment of their patients.

However, doctors and surgeons who regularly sell to the public, independently of their services, merchandise such as bandages, sterilized cotton and wadding, rubber gloves, vaporizers, radiographic and surgical materials, etc., must obtain a registration certificate and collect the tax on these sales.

[¶ 8910]

6-08.1. Oculists, Optometrists and Opticians.—The oculist is a physician who specializes in diseases of the eyes. His services include, in addition to the examination of the eyes and treatment of diseases pertaining to sight the prescription of glasses or spectacles when necessary.

The optometrist examines the eyes for the purpose of determining if glasses are necessary, and if so, prescribes for them. He, therefore, renders a service and does not collect the tax from his clients for these services.

The dispensing optician renders the same services as the optometrist, except the examination of the eyes.

The oculist and the optometrist and the dispensing optician are considered for sales tax purposes, as the consumers of the materials utilized in rendering their services and they must pay the tax to their suppliers on the purchase price of these materials, which they require for the exercise of their profession or supply to their customers in connection with their services.

Reg. 6-08.1—continued

The optician is the manufacturer and vendor of glasses or spectacles. Generally he manufactures them according to instructions given in the prescription issued by oculist, optometrist and dispensing optician. He must collect the tax on the total selling price of the glasses and other articles *including contact lenses* which he sells to oculists, optometrists and dispensing opticians. He must pay the tax on purchases of machinery, tools and equipment utilized to manufacture glasses and all other products which do not form a component part of the glasses.

When persons in the above mentioned trade sell, independently of their services, barometers, thermometers, telescopes, field-glasses, etc., they must collect the tax from their customers on the selling price of such articles.

This ruling also applies to doctors who occasionally act as oculists, optometrists and dispensing opticians.

[¶ 8915]

6-10. Druggists and Other Persons Who Operate Drug Stores.—Medicaments, patent medicines and other similar preparations are taxable movable property when sold and delivered to consumers, unless the medicaments are sold on doctors' prescriptions.

The sales tax is not exigible on medicaments sold to doctors who dispense them in the treatment of their patients.

A prescription consists of a written document from a doctor, dentist or venterinary, given with or without instructions as to the use of the formula for a medicament.

Medicaments sold on doctors' prescriptions, which are tax exempt, are the curative substances used internally or externally.

Refills in virtue of a prescription are not subject to the tax.

Druggists must keep a register showing the date of the issue of each prescription, the name of the doctor who prescribed it, the name of the patient, the details of the formula and the amount paid by the client. For this purpose the druggist may simply keep the prescriptions in a chronological order or transcribe the information in the same order in the register.

[¶ 8920]

6-11. Photographers.—Photographers must secure registration certificates and collect the tax from their customers on the full amount of their invoices for photographs, portraits, etc.

The developing and the re-touching of negatives which customers bring to photographers, is a service and the tax does not apply on the amount of the charge for such services, providing that the transaction

does not comprise the sale of merchandise. Similarly, when the customers bring photographs to be tinted or coloured, the price charged for these services is not subject to the tax. However, if the colouring is comprised in the charge of the photograph sold, no deduction for the colouring may be made on the total price for the calculation of the tax.

Photostats and reproductions of designs and plans, sold to consumers or users are subject to the tax.

Sales of photographic material, frames, cameras, films, albums, utensils and all other merchandise are also subject to the tax.

Photographers must pay the tax directly to their suppliers on purchases of equipment, apparatus and the furniture which they use for the purposes of their trade, also on goods which they purchase to render such services as developing, tinting, colouring, re-touching, etc.

[¶ 8925]

6-13. Veterinary Surgeons.—They provide only services and are not held to obtain a registration certificate.

They are considered to be the consumers or users of merchandise which they use in rendering their services and they must pay the tax directly to their suppliers, with the exception of medicaments which they dispense for the treatment of animals.

However, those who regularly sell to the public, independently of their services, merchandise such as patent medicaments, bandages, sterilized gauze, absorbent cotton, wadding and surgical material, must obtain a registration certificate and collect the tax on the sales, with the exception of medicaments dispensed to animals.

[¶ 8930]

7-03.1(a). Bonds and Shares.—(a) “Bonds and shares of a corporation”;

Although the sales of bonds and shares of corporations are not subject to the tax, the printing of bonds and shares is taxable when the bonds and shares are delivered within the Province, regardless of the place in which the company, or the corporation which issued them has its principal place of business or head office, and regardless of the place in which the sale of these securities took place or the place in which their purchasers reside.

[¶ 8935]

7-03.1(b). Intangibles, etc.—(b) “All other intangible property, all securities, all moneys;”

Reg. 7-03.1(b)—continued

Postage stamps and all other stamps issued by governments are not subject to the tax, when they are intact and used for the purpose for which they have been issued. Sales of used stamps are subject to the tax.

[¶ 8940]

7-03.1(c). Canadian Commodity Exchange Transactions.—(c) “All transactions made through the Canadian Commodity Exchange Inc.,”

[¶ 8945]

7-03.1(e). Beer and Tobacco.—(e) “Beer and tobacco;”

Beer is understood to include porter;

Tobacco is understood to include cigars, cigarettes, snuff, chewing tobacco and leaf tobacco;

[¶ 8950]

7-03.1(f). Gasoline and Kerosene.—(f) “Gasoline and kerosene (coal-oil);”

Consequently, all sales of gasoline subject to the Gasoline Law are exempt under the Retail Sales Tax Act.

Furthermore, the sales tax is not exigible on the delivery of petroleum products on which the gasoline tax will be collected, such as solvents, cleaning fluid, benzene, diesel motor oil, naphthas, etc.

However, the sales tax applies on the sale of petroleum products, other than gasoline and kerosene, when delivery is made without the gasoline tax being charged to buyers, who use these products for painting purposes, heating, lighting and lubricating, etc.

Sales of oil for heating purposes are subject to the tax.

Crude oil and diesel oil used to motivate boats and locomotives are not subject to the tax.

[¶ 8955]

7-03.1(g). Exempt Food Products.—(g) “Foodstuffs, not including candies;”

1. Food products include among other things the following items: cereals including flour, bread, food paste, biscuits, pastry, pies, cakes, etc.,

meats including extracts, meat juices, smoked meats, preserved meats, etc.,

milk and its products: malted milk, evaporated milk, condensed milk, cream, butter, cheese etc.,

eggs and their products ;

fish and its products : smoked fish, canned fish, etc.,

vegetables and their products : canned vegetables, prepared salads, etc.,

fruits and their products : dried fruit, fruit juices, candied fruit, canned fruit, jams, nuts, almonds, peanut butter, tomato juice, coconut butter, etc.,

salt and spices,

salt purchased by laundry owners to soften the water is not subject to tax,

cocoa and its products, other than delicacies,

tea, coffee and substitutes, ice cream, sundaes and sherbets,

sugar and its products other than delicacies, gelatine, jelly powders, essences, extracts, malt, sauces, soups, etc.,

hay, oats, grain, including all food for animals.

[¶ 8960]

7-03.1(g). Items Not Included in Food Products.—2. Food products do not include :

candies and confectionery which are subject to the tax even though they are made of ingredients exempt from the tax, such as sugar, milk, cream, butter, fruit, essences, cocoa, etc.,

chocolate in all its forms, fruits and nuts covered with sugar molasses and syrup, as well as all pastilles or bonbons of fruit or essences, are considered to be delicacies and subject to the tax,

medicaments, tonics, vitamins and other preparations whether liquid or granulated, powders, capsules or pills sold as substitutes for food regimes,

spirits and wines, soft drinks, sodas, aerated and mineral waters.

[¶ 8965]

7-03.1(h). Farmers' Produce.—(h) "Provisions or merchandise sold by a farmer, horticulturist, nurseryman, aviculturist or apiculturist and produced through the pursuit of his undertaking;"

Horticulturists, nurserymen, aviculturists and apiculturists are not exempt from the payment of the tax on their purchases of merchandise of which they are the consumers or users. Furthermore, they must collect the tax on the trees, plants, flowers, shrubs, and other articles which they sell at retail and which they do not produce themselves.

[¶ 8970]

7-03.1(i). **Farm Tools and Machinery.**—(i) “Tools, farm implements, farm machinery, tractors, animal-drawn vehicles, and parts for the same, acquired by a bona fide farmer to be used for the needs of his farm; horses, harness for horses, livestock, metal wire or netting for fences, also purchased by a bona fide farmer to be used for the needs of his farm;”

Persons who cultivate small plots of land for the sole purpose of raising livestock, poultry, etc., or to produce for their own use or consumption, are not entitled to the exemptions granted to bona fide farmers.

The vendors must justify the non-collection of the tax relative to the above-mentioned sales made to bona-fide farmers, by ascertaining their identity.

The articles mentioned in the following list are only some examples of tools, farm implements, etc., which agriculturists use for the needs of their farm :

Non Taxable

Baskets for fruits and vegetables, etc. (non returnable)	Containers used for delivery (non returnable)
Boilers	Diggers (beets or potatoes)
Brooders for chickens	Drain tiles
Cauldrons	Driving belts (agricultural)
Centrifugals	Dryers
Chains—detachable chains	Electric fences and equipment
Churns	Electric motors for farm use
Cider pressers	Engines for farm use
Corncutters	

Co-operative agricultural societies and farm housewives societies are not exempt from the sales tax.

Farm implements	Grindstones
Feed cutters	Grist
Feed mills	Grease and greasing equipment (for farm machinery)
Fence posts	Halters and tying chains for animals
Fertilizers	Harness for horses
Fertilizer spreaders	Harrows
Fruit and vegetable baskets	Hay loaders
Fungicides	Hoes
Gasoline, kerosene and oil (for farm machinery)	Hoists
Gates	Horses
Grain sieves	Horseshoes
Grain grinders	Horse-drawn vehicles

Non Taxable—continued

Hydrate of lime	Rakes
Insecticides	Repair parts and equipment for farm machinery
Irrigation equipment	Returnable delivery containers
Ladders and stools	Saddles
Livestock	Saws including chain saws
Medicines for animals and poultry (sold on veterinary's prescription)	Seeds and grain
Metal wire or netting for fences	Sowing machines
Milk cans	Sheaf-binders
Milk coolers	Shearing machines
Milking machines	Shovels
Mowing machines	Silos (portable) and linings
Muzzlers	Small bells
Paring knives	Threshers and equipment
Pitchforks	Tires for tractors and farm machinery
Planting machines	Tractors
Plows	Transplanters
Portable water troughs	Weaving looms
Portable reservoirs	Weed sprayers
Portable silos	Weeders
Portable sprayers for vegetables	Whips
Poultry feeding pens	Wrapping or packaging materials
Pruning shears	
Pumps to supply water to animals	

Taxable

Automobiles	Lighting systems (electric)
Building materials	Lightening rods
Ditch diggers	Paint and brushes
Dynamite	Piping and accessories for water systems
Electricity	Posthole digging machines
Electric motors for domestic use	Pumps for domestic use
Engines for domestic use	Racing vehicles and harness
Fence stretchers	Refrigerators for domestic use
Freezers	Scales
Graders (levelling machines)	Trucks
Lanterns or beacons	Wagons
Lawn mowers	

[¶ 8975]

7.03.1(j). Fishermen's Apparatus.—(j) "Boats, fishing nets and any other fishing apparatus purchased by a bona fide fisherman to be used in his trade;"

Fishing tackle does not include the oilskin hats or varnished (Southwesters) and oilskin clothing used specially by fishermen.

[¶ 8980]

7-03.1(*k*). **Water.**—(*k*) “Natural water, distilled water and ozonized water;”

“Natural water” includes natural mineral water. Artificial mineral water is subject to the tax.

[¶ 8985]

7-03.1(*l*). **Prescribed Medicaments, etc.**—(*l*) “Medicaments on doctor’s prescriptions; artificial limbs and orthopaedic appliances;”

By medicaments is meant specifically the curative substances administered internally and externally. Medicaments are exempt when ordered by a doctor or sold to a holder of a prescription issued by a doctor. The refilling of an order upon a doctor’s prescription is not subject to the tax.

The exemption is extended to medicaments sold to doctors, as it is customary for them to buy medicaments to dispense in the treating of their patients. Not included in this exemption, are such articles as sterilized gauze, wadding and absorbent cottons, bandages, rubber gloves, vaporizers, rubber bags, X-Rays or surgical materials, etc.

Tonics, vitamins and all preparations sold in liquid, powder, capsules in tablets or granulated, to supplement certain alimentary diets, are subject to the tax.

Sales of insulin are not subject to the tax.

By orthopaedic appliances is meant the appliances which are intended to prevent or to correct bodily deformities, such as hernia bands, elastic stockings, foot arch supports, crutches, hospital canes, wheel chairs, hearing aids and other appliances of the same nature.

[¶ 8990]

7-03.1(*m*). **Transportation Fares.**—(*m*) “Fares on tramways, auto-buses, boats, railroads or other transportation systems by land, water or air and toll fares;”

[¶ 8995]

7-03.1(*n*). **Price of Admission to Amusements.**—(*n*) “Price of admission to places of amusement, as defined by the Amusement Tax Act (Chapter 85) and amendments;”

[¶ 9000]

7-03.1(*o*). **Sales to Governments.**—(*o*) “Sales to the Federal Government or to the Provincial Government;”

Sales made to the National Harbours Board, to the Canadian Agricultural Loan Commission and to Radio-Canada, are sales made to the Federal Government and are consequently, exempt from the tax.

Sales made to the Quebec Liquor Commission and the Quebec-Hydro, are considered as sales made to the Provincial Government and are exempt from the tax.

Sales of movable property to persons who benefit from loans or concessions granted by the Federal and Provincial Governments, purchased for their own use or consumption, are subject to the tax, even if the Government is a party to the agreement intervened between the vendor and the consumer.

Sales made within the Province by Governments are subject to the tax.

[¶ 9005]

7-03.1(p). Sales to School Commissions.—School commissions are not subject to the payment of the tax imposed by themselves, but they must pay the provincial and the municipal sales taxes.

[¶ 9010]

0-04. Sales to Municipalities and School Corporations.—Municipalities are not subject to the tax they impose, but they must pay the provincial and school taxes.

School corporations are not subject to the tax they impose, but they must pay the provincial and municipal taxes.

Municipalities and school corporations are subject to municipal and school taxes imposed in other territories, when they purchase and take delivery of taxable merchandise in such territories.

[¶ 9015]

7-03.1(p). Fabrics, Parish Trustees, Religious Communities or Institutions and Charitable Organizations.—Fabrics or parish trustees must pay the sales tax on all their purchases of movable property which are not made solely for the purpose of worship, among others:

- (a) all that is not bought and paid for by the fabrics ;
- (b) furniture and accessories for a presbytery ;
- (c) automobiles ;
- (d) personal belongings of the members and employees of the rectory and of the fabric ;
- (e) goods purchased for parish organizations, recreational centres, playgrounds, bazaars, raffles, bingos, charity sales, etc.

Reg. 7-03.1(*p*)—continued

In addition, the sale and lease of taxable movable items by parish organizations, recreational centres, playgrounds, etc., must be made under a registration certificate issued by the Retail Sales Tax Service. The collection of the tax on the selling or lease price of such items is obligatory and the remittance thereof must accompany the monthly report.

The Act does not provide any exemption for purchases of movable property made by religious communities or institutions and charitable organizations.

EXEMPTIONS

The retail sales tax does not apply on sales made to fabrics or parish trustees for purposes of worship. Considered as being for the purpose of worship, among others, are the following:

- (a) the church and sacristy, their furnishings and accessories and all that is used for their maintenance and repair;
- (b) the organ in the church;
- (c) liturgical objects and garments including those of choir children and ushers;
- (d) publications concerning the religious activities of the parish;
- (e) the building used as a presbytery and the purchases made for its maintenance and repair;
- (f) items used in the administration of the fabric, such as: registers, stationery, desks, etc.;
- (g) decorations for religious celebrations;

IT SHOULD BE NOTED

- (a) that the exemption granted to parish fabrics applies to all churches, no matter as to their religious denomination;
- (b) that it is to the vendor to ascertain that a sale is being properly made to a fabric for purpose of worship and is paid for by the latter, in order to justify the non-payment of the tax.

[¶ 9020]

7-03.1(*p*). Hospitals.—Hospitals must pay the tax on all their purchases of movable property not used directly in connection with their undertaking, including those intended for the purpose of recreation and social activities of their patients and personnel, such as: radios, televisions, games of all kinds, etc.

Furthermore, hospitals that, in addition to the services which they render, sell or lease movable objects of a taxable nature to their patients, to the public or to their personnel, must obtain a registration

certificate from the Retail Sales Tax Service, collect the tax on the selling or leasing price of such articles and forward the report with their remittance each month.

EXEMPTIONS

The only purchases exempt from the sales tax are those made exclusively in connection with their undertaking:

- (a) movable property purchased to lodge, care for and treat patients;
- (b) items purchased to lodge personnel at the hospital and the uniforms to dress hospital personnel;
- (c) material and equipment necessary for the administration and operation of the hospital.

To be exempt from the sales tax, the above-mentioned items must have been bought and paid for by the hospital and remain its property.

[¶ 9025]

7-03.1(q). Judicial Sales.—(q) “Sales made by judicial authority;”

Sales made by judicial authority are sales which are ordered by the Court, such as:

1. sales made by sheriffs or bailiffs following a seizure executed to satisfy a judgment,
2. compulsory sales for expropriation purposes,
3. sales of movable property belonging to minors and other disabled persons,
4. sales of movable property being the subject of a sharing or of a sale by auction,
5. sales of assets of an estate without a claimant.

[¶ 9030]

7-03.1(r). Sales for Delivery Outside Quebec.—(r) “Sales made by any person carrying on business in this Province, when the merchandise thus sold is shipped outside of the Province, for consumption or use outside of the Province;”

When merchandise is sold within the Province and the vendor is obliged, in virtue of the conditions of the sale, to ship it outside of the Province, or to deliver it by a known carrier or transportation company, or by the postal service, the sales tax does not apply provided that the merchandise is not returned within the Province to be utilized or consumed.

Reg. 7-03.1(r)—continued

To prove that the merchandise was really shipped outside of the Province, the vendor must retain :

- (a) the bills of lading and other shipping documents which constitute a satisfactory proof that the delivery was made to a carrier or transportation company, a forwarding company or to the Post Office for shipment outside of the Province, or
- (b) a route sheet signed by the person who made the delivery for the account of the vendor and showing the signature and the address of the person who received the merchandise outside of the Province.

When, for any reason whatsoever, the merchandise is re-routed and is returned within the Province to be used or consumed, the tax applies to the transaction, even though the vendor may have in his possession documents indicating that the merchandise was entrusted to a carrier or transportation company for delivery outside of the Province.

[¶ 9035]

7.03.1(s). Meals.—(s) “Meals;”

[¶ 9040]

7-03.1(t). Books, Periodicals, Classroom Supplies.—(t) “Printed books and periodicals; classroom supplies, not including automatic pencils or fountain pens;”

“Periodicals” mean newspapers and reviews (magazines) published on fixed days.

“Printed books” mean a collection of a certain quantity of printed sheets, stitched or bound together in order to form a volume.

Accounting books, registers, minute books, financial reports and others of the same nature are not considered as printed books, and are consequently subject to the tax.

Calendars are not considered to be printed books. Music-books and sheet music are exempted.

“Classroom supplies” means the movable objects which scholars, collegians, or students use in exercising their functions of scholars, collegians or students, such as pencils, pens, copybooks, scholars’ book-bags, rulers, drawing instruments, drawing books, when sold for the above mentioned purposes to houses of education, to pupils who attend such houses or to the parents or tutors of the latter.

Classroom supplies do not include furniture, such as desks, chairs, benches, tables, blackboards, etc., and do not include automatic pencils, and fountain pens.

Microscopes, surgical and X-Ray instruments, etc., are considered to be classroom supplies when sold to students for the needs of their studies. However, the vendor must issue an invoice in each case, indicating the name and address of the student, the name of the University or the College and the name of the Faculty that he attends.

[¶ 9045]

7-03.1(u). Telegraph Messages.—(u) “Telegraph Messages;”

[¶ 9050]

7-03.1(v). Agricultural Products, Cleaning Products.—(v) “Grain and mill feeds, seeds, fertilizers, insecticides and fungicides, soaps and other products used for cleaning; drain tiles for agricultural purposes;”

Hydrate of lime used as a fertilizer is not subject to the tax.

Tiles for drains are exempt only when sold for agricultural purposes. The other products mentioned in the foregoing paragraph are exempt in all cases.

By “insecticides” is meant all those substances designed to destroy insects. They include mothballs, Paris Green, Bordeaux Spraying mixture, fly paper, etc.

Insecticides do not include herbicides.

By “soaps and other products used for cleaning” is meant soap and other oil preparations or fat substances with soda, potash or other alkali, which are used to clean or to degrease like ordinary soap, shaving cream, toothpaste and powder, javel water, starch, laundry-blue and other products used for cleaning.

Preparations such as beauty creams, wax, mops, brushes, chamois, flannels, cottons, steel wool, etc., are not exempt.

[¶ 9055]

7-03.1(w). Coal, Firewood, Ice.—(w) “Coal, firewood and ice;” Coal includes charcoal and coke.

[¶ 9060]

7-03.1(x). Children’s Clothing and Footwear.—(x) “Children’s clothing and children’s footwear;”

“Children’s clothing” means all garments with which a child is clothed. This exemption covers all garments sold for and to be used by a boy who dresses up to size 33 and by a maiden up to size 14X, both inclusively.

Reg. 7-03.1(x)—continued

This exemption does not apply to yard goods, bed coverlets, eider-down coverlets, rubber cloths, handkerchiefs, umbrellas, purses and other accessories.

College tunics and houses of education dresses are all exempted, also Scout uniforms including badges and distinguishing marks when they form a component part of the garment, and when they are included in the sale price.

“Children’s footwear” means shoes, overshoes, rubbers, boots, gaiters, leggings and slippers sold for and to be used by children:

(a) up to size 6 inclusively for boys;

(b) up to size 6 inclusively for maidens.

Men’s and women’s footwear are not exempted.

The exemptions concerning children’s clothing and children’s footwear apply to the articles and not to the persons.

SKATES AND CHILDREN’S FOOTWEAR

In conformity with paragraph *x.* of section 12 of the *Retail Sales Tax Act* children’s footwear is not subject to the tax.

However, persons who sell skates fixed to children’s shoes must collect the tax on the full price demanded of their customers.

[¶ 9065]

7-03.1(y). Sales of Ten Cents or Less.—(y) Sales for a price of ten cents or less.

The sales tax is calculated on the total price of the articles subject to the tax covered in the same sale to a customer. Consequently, the sale of several taxable articles of ten cents or less, which form a total sum of more than ten cents, is subject to the tax. Example: 3 bottles of soft drinks at 7 cents each, sell at 21 cents, plus 2 cents tax, total 23 cents.

[¶ 9070]

7-03.2. Fuel Oil.—Section 12 of the *Retail Sales Tax Act* (Revised Statutes 1941, Chapter 88), amended by section 1 of the Act 8 George VI, chapter 20, is again amended from the first of May 1961, by replacing paragraph *f.* by the following:

f. Gasoline, kerosene and fuel oil.

Consequently, the *Retail Sales Tax Act* shall not apply to sales of fuel oil as of May 1st, 1961.

The new exemption will apply from the same date to the sales tax imposed by a municipal or school corporation.

[¶ 9075]

7-03.3. Herbicides.—Section 12 of the *Retail Sales Tax Act* (Revised Statutes Quebec 1941, Chapter 88), amended by section 1 of the Act 8 George VI, chapter 20, is again amended from the 21st of September 1961, by replacing paragraph *v.* by the following:

v. Grain and mill feeds, seeds, fertilizers, insecticides, herbicides and fungicides, soaps and other products used for cleaning; drain tiles for agricultural purposes.

Consequently, the *Retail Sales Tax Act* shall not apply to sales of herbicides as of September 21st, 1961.

The new exemption will apply from the same date to the sales tax imposed by a municipal corporation.

[¶ 9080]

7-07. Groceries and Restaurants.—The *Retail Sales Tax Act* does not apply to sales of foodstuffs, beer, porter, tobacco, soaps, charcoal and to sales for a price of ten cents or less.

However, the sales tax applies to all sales of other products, such as:

Absorbent cotton	Batteries (all-types)
Adding machine cylinders	Beads
Adding machine paper	Bird gravel
Alcohol rubbing	Bleaching agents
Almonds "Sweet"	Bobby pins
Alum	Borax
Aluminum-foil	Bottle caps and openers
Ammonia	Bottles (Milk, soft drinks and Beer)
Anaesthetic	Brilliantine
Antifreeze	Brooms
Articles for preserving	Brushes (all-types)
Ash-trays	Buckets
Automatic pencils	Cameras and accessories
Automobile polish	Camphor
Baby oil and Powder	Candies (all candies)
Bags garbage	Candles (of all kinds)
Bags (not resale)	Caps
Bags "Shopping"	Cards (playing and greeting)
Baking cups	Casing (tubular)
Ball point pens	Caustic
Balloons	Cello tape paper
Bars (Chocolate)	

Reg. 7-07—continued

Chalk	Gloves
Chamois	Glue
Check-books (counter, etc.)	Glycerin
Chemical substitutes	Gummed paper
Chewing gum	Hair dye
Clothes line	Hair tonics
Chocolate (boxes or by the pound)	Handkerchiefs
Cider	Hand towels (Napkins)
Cigarette making machine	Ink
Cigarette paper and tubes	Jam jars
Clothes pins and pegs	Labels
Combs	Lamp wicks
Corks	Lighter and accessories (fluid wicks, flints, etc.)
Cosmetics	Lime
Cotton swabs (Q-Tips, etc.)	Liniment (rubbing)
Cough syrups	Linseed oil
Covers	Maps
Creams (beauty, hair, etc.)	Marshmallow
Crème de menthe, (etc.)	Matches
Crucifixes	Medals
Defroster - Drops ass't	Medicaments (patent medicine)
Deodorizers (deodorant)	Metal polish
Dietetic products	Milk of magnesia
Dish mops	Mineral waters (dietetic and aerated)
Dishes (all kinds)	Mops
Dixie-cups	Mouse traps
Dyes (all-types)	Nail trimmers
Effervescent or fruit salts	Needles
Electric bulbs	Night lights
Envelopes	Nipples
Epsom salt	Oil (castor, cod-liver, mineral, machine and motor oil) Also camphor oil
Essences (liquid for beverages or powder)	Ointments
Facial tissues	Openers (can and bottle)
Faucets (wooden, etc.)	Paper knife
Films (and cameras)	Paper napkins
Filters	Peanuts (sweet)
First-aid products, plasters, etc.	Permanent wave-kits (for home use)
Flash-lamps	Peroxide
Flashlights	Petroleum
Floor colouring	Pins (all-types)
Flowers (artificial or natural)	Pipes
Fly swatters	Pipe cleaners
Foil paper	Plastics
Food colouring	Plastic wraps
Friction tape	
Furniture polish	
Fuses	

Plates (all kinds)	Sugar coated nuts
Poison (rat, etc.)	Sun glasses
Polisher	Table cloth
Polishes (shoe, etc.)	Table linen
Popcorn (sweet)	Table towels
Pouches (tobacco, etc.)	Tacks
Powder puffs	Teats
Razors (blades, etc.)	Thermos bottles
Records	Thread
Rope (twine for resale)	Tissue paper
Rosin	Toilet paper
Rubber rings	Tooth picks
Sanitary towels	Towels (assorted)
Sealing wax	Trinkets - toys (all-types)
Shelves paper	Turpentine
Shoe laces	Twine (for resale)
Sprayers	Vitamins
Staples	Watches
Starters	Water softener
Statues	Wax appliers
Steel wool	Waxed paper
Sternos	Wooden faucets
Stockings	Wrapping paper (for resale)
Stores accessories (equipment, etc.)	Writing paper
Straws (drinking)	

Above mentioned articles are only a few examples of taxable products mainly sold in groceries. In case of doubt, the agent should inquire at the Sales Tax Service, Department of Revenue.

[¶ 9085]

8-02. Advertising Agents.— Advertising agents must secure registration certificates. They prepare and publish for their customers advertisements in newspapers, magazines and periodicals. They then perform services and collect no tax on these services; but they must collect the tax on all the stereotype plates, drawings, engravings, vignettes, matrices, etc., utilized for advertising purposes and on all the printed matter and other articles subject to the tax delivered to their clients within the territory.

Advertising agents must pay, themselves, the tax on the purchase price of stereotype plates, designs, engravings, cuts, etc., of which they remain the owners, as well as on the designs, art work and other articles which they purchase for their own use or consumption in the exercise of their trade.

[¶ 9090]

8-03. Barbers, Hairdressers, Shoemakers.— These persons must secure registration certificates.

Reg. 8-03—continued

They are held to pay directly to their suppliers the tax on their purchases of merchandise utilized in order to execute their services. They must, moreover, pay the tax to their suppliers on purchases of furniture, instruments, machines and equipment for the purposes of their trade.

If they do not sell any merchandise, they are not required to file a report each month to the Sales Tax Service.

Those, who, in addition to rendering services, sell merchandise regularly do not pay the tax to their suppliers on goods bought for resale, however, they must collect the tax on the sale price of such merchandise and file a monthly sales tax return.

[¶ 9095]

8-04.1. Launderers, Dyers, Cleaners, Pressers. — These persons provide services but do not usually sell any merchandise. They are considered to be the consumers of all the merchandise that they buy for rendering their services, or for utilization or consumption in their establishments. They must pay the tax to their suppliers on all their purchases.

When they buy outside of the Province of Quebec taxable territory merchandise or machinery for their own use in said territory they are held to remit the tax directly to the Minister of Revenue on the purchase price of the merchandise or machinery.

These persons only render services when they supply clothing, such as aprons, coats, towels, caps and other articles of similar kind to barbers, hairdressers and others and must pay the tax on these items directly to their suppliers.

They are also considered to render services when they use thread, buttons and other materials of little value to mend or repair garments, draperies, curtains, etc., and they must pay the tax directly to their suppliers on the purchase price of these commodities.

However, those who supply materials used in the repairing of clothes, draperies, curtains, etc., such as dress materials, fabrics, etc., must collect the tax on the total amount of the invoice, or on the value of the materials supplied if it is shown separately.

Those who sell clothes, cloth, furniture, draperies, curtains, etc., or who manufacture them for their customers are considered as merchants and must collect the tax on the full amount of the sale. They cannot in such cases separate the materials from the labour.

Launderers, dyers, cleaners and pressers must pay the tax directly to their suppliers on purchases of electricity, fuel oil, hangers, twines, boxes, envelopes, paper bags, etc., used for rendering their services, and on all purchases of machinery and equipment used for cleaning, dyeing and pressing.

SALT

Salt is a food product exempt under paragraph "G" of section 12 of the Act and launderers make considerable purchases of this commodity to soften the water used for washing clothes.

As the Act purely and simply exempts foodstuffs, salt purchased by launderers for washing purposes is not subject to the tax.

DYERS

A certain class of dyers do not make repairs or alterations to clothing. These dyers work exclusively for manufacturers of fabrics, woollens, etc. This consists of a working process to a new product and these dyers are considered as manufacturers. They may benefit of the privileges granted in virtue of Order in Council No. 461 dated May 5th, 1949.

[¶ 9100]

8-07. Fumigators of Insects and Vermin and Contractors for Disinfection.—These persons provide services but do not usually sell any merchandise. They do not hold registration certificates and pay the tax to their suppliers on all their purchases. They do not collect the tax from their customers.

However, when they sell disinfectants, destroying products, etc., they are retail merchants who must register and collect the tax on their sales.

The disinfectants are not considered to be insecticides and consequently are subject to the tax.

[¶ 9105]

8-08. Blacksmiths.—Blacksmiths must secure registration certificates. To effect their repairs, they utilize materials which are not usually invoiced separately. They are considered to be the consumers of these materials and are not to collect the tax from their customers for these repairs, but must pay the tax themselves on the metals and other materials which they purchase to effect these repairs. They must, moreover, pay the tax on the instruments, tools, machines and all other articles which they purchase for use in their trade.

Whenever they sell materials or manufactured products, they must collect the tax.

They do not collect the tax on the sales of spare parts and materials which they provide and use to effect repairs and improvements to tools and farm implements, tractors and horse-drawn vehicles used by bona fide farmers.

[¶ 9110]

8-09. Manicurists and Chiropodists.—These persons must pay the tax directly to their suppliers on all merchandise purchased in order to render their services. They must, moreover, pay the tax on the furniture, instruments, machines and apparatus which they purchase for the purposes of their trade.

Those who do not sell merchandise are not required to make a report each month to the Sales Tax Service.

Those who sell merchandise such as lotions, cosmetics, perfumes and other articles do not pay the tax to their suppliers on such articles which are bought for resale, but they must collect the tax from their customers and remit monthly.

[¶ 9115]

8-11. Multigraphing.—Persons who do multigraphing by means of mimeotyping machines, multigraphing machines, photostats, etc., must secure registration certificates and collect the tax on the total price of the sale to the customer.

The cost of labour or services must not be deducted from the total price for the calculation of the tax, even if the material and the labour are invoiced separately. However, when the customer furnishes the materials to the multigrapher the latter provides nothing but his services, and the tax is not levied on such services.

[¶ 9120]

8-12. Service Enterprises.—The sales tax is not exigible in cases where services alone are performed without any merchandise being sold. Among such services, the following may be mentioned: washing, cleaning, pressing, dyeing, shoeshining, hairdressing, washing automobiles, adjusting brakes and charging batteries.

Persons who render such services must, however, pay the tax on the merchandise which they utilize in the execution of their services.

If, in addition to rendering services, they also sell merchandise regularly, they must secure registration certificates and collect the tax on these sales, make a monthly report and remit the tax.

[¶ 9125]

8-13. Upholstering of Furniture.—All persons who repair or improve furniture, are required to secure registration certificates.

They must collect the tax on the full amount of the invoice, unless the price of the material and the work performed are indicated separately. In the latter case, the tax is to be collected on the price of the material only.

When the customers supply the material, the upholsterers then sell their services only and collect no tax on these services.

Whenever the upholsterers sell manufactured furniture, they must collect the tax on the full price of the furniture.

[¶ 9130]

8-14. Interior Decorators.—Persons who manufacture furniture, draperies, curtains, bedspreads, etc., according to designs, are required to secure registration certificates.

They must collect the tax on the full amount of the invoice, even when the fabrication is made according to specifications furnished by the customer and with materials collected by him. There is in this case a sale of a finished product and the work or services supplied cannot be deducted from the total price for the calculation of the tax, even if they appear separately in the invoice.

When the customer supplies his own materials, the maker then renders services only, and the tax is not due on such services.

[¶ 9135]

8-15.1. Transportation Companies.—

AUTOBUS TRANSPORTATION COMPANIES

Autobus Transportation Companies rendering interprovincial and international services are subject to the retail sales tax on all purchases of motor vehicles registered in the Province and on all their purchases made to maintain said motor vehicles in good order, based on the proportion of mileage covered by these motor vehicles in the Province compared to total mileage, with the following minimum:

Provincial tax—minimum of 20%.

Municipal tax—ratio of mileage in the municipality where the principal place of business is compared to total mileage, with a minimum of 10%.

School tax—ratio of mileage in the school commission territory where the principal place of business is, with a minimum of 10%.

With respect to autobus transportation companies rendering services in the Province exclusively, the same directive applies with this difference that the Provincial Tax is exigible on a 100% basis.

However the above mentioned directive does not apply in the case of motor vehicles used exclusively in a municipal or school territory.

Reg. 8-15.1—continued

The companies concerned are in the obligation to have and keep in their possession all records, data and statistics which will permit the auditors of the Sales Tax Service to apply the above mentioned directives, otherwise the assessments will necessarily be established on an arbitrary basis.

TRANSPORTATION COMPANIES

The same directives apply as in the case of autobus transportation companies, but only for those transportation companies rendering interprovincial and international services.

Furthermore, in the case of interprovincial and international companies whose motor vehicles are not registered in Quebec, in virtue of a mutual understanding concerning the exemption from registration, the words "motor vehicles registered in the Province" mean motor vehicles provided with markers issued by the Province of Quebec Transportation Board.

The companies concerned are in the obligation to have and keep in their possession all records, data and statistics which will permit the auditors of the Sales Tax Service to apply the above mentioned directives, otherwise the assessments will necessarily be made on an arbitrary basis.

This directive is applicable only to transportation companies making regular trips in virtue of a permit issued by the Transportation Board and only applies to purchases of trucks, parts and accessories used to render interprovincial and international services.

AIR-TRANSPORT:

Purchases made for airplanes which travel regularly between airports in the Province and airports in other Provinces or other countries are not subject to the tax.

[¶ 9140]

8-15.2. Air Transportation.—Purchases of aircraft are subject to the Provincial Sales Tax only as their principal use consists of flying outside the municipal territories.

Aircraft parts and accessories are also subject to the Provincial Sales Tax only.

Persons are subject to the Provincial Sales Tax on purchases of aircraft operated exclusively between airports located in the Province of Quebec. Repairs or improvement to these aircraft are also subject to the Provincial Tax.

Aircraft of Companies normally engaged in commercial transportation are subject to the tax on the purchase price of the aircraft and parts in the proportion of mileage covered in the Province compared to total mileage with a minimum of 20%.

However, aircraft operated exclusively outside the Province or interprovincially on an exclusive basis are not subject to the tax.

Owners of aircraft engaged as common carriers must obtain a registration certificate.

Purchases made by Aircraft Companies which operate exclusively between airports located in the Province of Quebec and those of other provinces or foreign countries are not subject to the tax.

Parts and accessories used for the repair or maintenance of these aircraft are not subject to tax.

All taxable purchases made by air transport companies for their offices, hangars, warehouses, etc., are subject to the provincial sales tax and also to the municipal sales tax where it is levied.

Common carriers and other persons concerned are held to have and keep in their possession all records, data and statistics which will permit the auditors of the Sales Tax Service to apply the above mentioned directives, otherwise the assessments will necessarily be established on an arbitrary basis.

[§ 9145]

9-02. Offences.—The following are offences against the *Retail Sales Tax Act*:

- (1) Refusal or neglect by the holder of a registration certificate to collect, report, or remit sales tax due on sales or on purchases for use or consumption.
- (2) To announce to the public or to each purchaser directly or indirectly that the tax will be absorbed in whole or in part.
- (3) Refund by a vendor of any part of the tax due on a sale.
- (4) Failure on the part of the holder of a registration certificate to maintain the required records concerning sales and purchases, or to produce them for examination by a duly authorized revenue officer.
- (5) Destruction of the required records concerning sales and purchases and other documents pertaining to sales tax, without the written consent of the Deputy Minister of Revenue or the Director of the Sales Tax Service.
- (6) Return of a report containing a false declaration, or the voluntary return of an incorrect report.

Reg. 9-02—continued

(7) Remission of an N.S.F. cheque to the Sales Tax Office in payment of sales tax due.

IT IS ILLEGAL TO ABSORB THE TAX

Obligations of the vendors: Articles 4, 7, and 8 of the *Retail Sales Tax Act* require that the vendor collects the tax from the purchaser of movable property. It is illegal to announce to the public or to inform the customer, directly or indirectly, that the tax, or part of it will be absorbed or included by the vendor in the sale price, or that he will not add it to the sale price of the article sold, or he will refund to the purchaser, in whole or in part, what he has added to the sale price.

Obligations of the purchaser: Article 4 of the *Retail Sales Tax Act* requires that each person who, for his own use or consumption, buys movable property subject to the tax, pays the tax to the vendor. Any purchaser who voluntarily refuses to pay the tax commits an offence against the Act.

Consequently, the vendor must collect and the purchaser must pay the tax imposed by the Act, in default of which, the vendor or the purchaser, or both, will be liable to the penalties provided by the Act.

[¶ 9150]

9-02.1. **Notice.**—Any person who refuses or neglects to pay to the Minister of Revenue of the Province, after being put in default, the duties he has collected or was required to collect for the Crown, under any revenue law or under regulations made on the authority of such law, commits an offence and is liable, in addition to the costs, to a *fine equal to double the amount of the duties he has collected or was required to collect* and, in default of payment or such fine and costs, to imprisonment of from one to three months.

[¶ 9155]

9-04.1. Classification of Trades

RETAIL TRADES		CF	—	Furs
A	— Grocers, meat stores and other food stores.	CG	—	Shoes
B	— Restaurants, tobacco and soft drinks.	CJ	—	Clothing peddlers, etc.
C	— CLOTHING AND ACCESSORIES	D	—	GENERAL STORES
CA	— Gents' Furnishing	DA	—	Department Stores
CB	— Ladies' apparel	DB	—	Variety Stores
CC	— Children's clothing	DE	—	Office furniture and equipment.
CD	— Yard goods, remnants, knitted goods.	DM	—	Household furniture and electrical appliances, radios and musical instruments.
CE	— Tailors, dressmakers, millinery	E	—	Building materials and hardware

F	— AUTOMOBILES, GARAGE, MACHINERY	SERVICES
FA	— Auto dealers	NA — Cinema-Halls, theatres, radio and television stations, amusement halls, bowling and billiard halls
FG	— Garages, service stations, auto parts	NB — Hotels, taverns, grills, liquor commissions, social clubs and tennis clubs
FM	— Farm implements, general machinery and parts	NC — Carriage builders, saddlers, locksmiths, blacksmiths, shoeshiners and shoe-makers
G	— Drug Stores	ND — Miscellaneous
H	— Jewellery Stores	NF — Undertakers
J	— Peddlers	NL — Lessors of movable property; motors, electrical appliances, television sets, radios, games, bicycles, costumiers, etc.
K	— OTHER RETAIL TRADES	NO — Opticians and optometrists
KA	— Animals, animal feeds and medicaments, cages, aquariums.	NP — Photographers, commercial designers, sign makers, publicity agents, radio tape recorders, commercial films, painting artists and window-dressers
KB	— Bicycles (sales and rentals).	NR — Repairs to movable property; radios, television sets, typewriters, refrigeration equipment, oil burners, solderers, machine shop, etc.
KC	— Leather (articles of), trunks, purses.	NS — Trustees
KD	— Miscellaneous.	NT — Dyers, launderers, cleaners, pressers, hairdressers, barbers
KE	— Scientific and surgical instruments; orthopaedic appliances.	P — Public Utilities and Institutions
KF	— Florists, plants, seeds, landscapers.	INDUSTRIES AND MANUFACTURING PLANTS
KG	— Distributors of oxygen, acetylene and hydrogen—parts and accessories.	R — Food, beverages, tobacco
KH	— Fuel oil and other fuels (propane gas).	S — Textiles and clothing
KL	— Libraries, stationery, office supplies, used stamps and moneys.	T — Leather and rubber
KM	— Monuments and tomb stones.	U — Wood pulp and paper
KN	— Pawnshops (second hand stores).	V — Metals
KP	— Photographic and cameras equipment and supplies.	W — Chemical industries
KR	— Upholsterers, interior decorators.	XB — Concrete contractors
KS	— Sport goods, boats and outboard motors.	XD — Miscellaneous—roofers, tin-smiths, painters, plasterers, carpenters, masons, insulation, bricklayers, mining, lumbering, foundation
KT	— Artists' supplies, souvenirs, knick-knacks, toys, gift shops, handicrafts.	
WHOLESALE TRADES		
L	— Wholesalers	
M	— Manufacturers' agents, importers, exporters	
N	— Personal services	

Reg. 9-04.1—continued

XG	—	General contractors	XR	—	Road contractors
XM	—	Manufacturing contractors	Y	—	Printing and related industries
XP	—	Electric, plumbing, heating and air-conditioning contractors, electric power installation, refrigeration	Z	—	Industries of silicious materials

[¶ 9160]

O.C. 40. Coupons, Stamps, Gifts, Samples, Prizes, Awards, Premiums.—CONCERNING merchandise used or sold to promote sales and the *Retail Sales Tax Act*, chapter 88, R.S.Q. 1941, and amendments.

WHEREAS it is essential to make regulations concerning merchandise used or sold to promote sales with regard to the *Retail Sales Tax Act*;

WHEREAS section 27 of chapter 88, R.S.Q. 1941 and amendments (*Retail Sales Tax Act*), allows the Lieutenant-Governor in Council to make regulations to enforce the provisions of the Act according to their real meaning;

WHEREFORE, IT IS ORDERED, upon the recommendation of the Minister of Revenue:

THAT the present regulation be adopted to take effect from the date of its publication in the *Quebec Official Gazette*.

Regulation number "2"

1. Where a vendor issues to his customer redeemable coupons, stamps or other non-monetary paper at the time his customer purchases merchandise, he must calculate the tax payable on the cash price charged for the merchandise being sold before deducting therefrom the face value or any other value of any redeemable coupons, stamps or non-monetary paper issued by the vendor at the time of sale.

2. Where a vendor sells his regular line of merchandise and at the time of sale accepts redeemable coupons, stamps or other non-monetary paper as part payment of the sale price of the merchandise sold, the vendor must collect tax at the time of sale on the price charged for the merchandise whether the vendor grants credit, or accepts payment of such price in redeemable coupons, stamps or other non-monetary paper or in cash.

3. Where a vendor who has issued coupons, stamps, or other non-monetary paper to his customers at the time they bought merchandise from him, acquires premium goods, and keeps them separate from his regular merchandise for distribution to his customers in exchange for the redemption of such coupons, stamps or other non-monetary paper, the vendor is deemed to be the consumer of the premium goods and must pay tax at 6 per cent of the price charged for them by his supplier at the time of purchase.

4. Where a merchant acquires, coupons, stamps or other non-monetary paper that are redeemable by a premium house, to be given to his customers at the time they purchase goods from him, the merchant is deemed to have purchased premium goods at the time he acquired such coupons, stamps or other non-monetary paper equal in value to the amount he paid to acquire such paper and must pay tax at 6 per cent of such amount less any deduction or allowance made by the premium house in respect of stamps returned by the merchant, such stamps having been redeemed by him under subruling 2.

5. Where a vendor manufactures or purchases tangible personal property and distributes it free of charge to others for advertising purposes, as samples or as awards or prizes the winning of which depends on chance or skill, the vendor is deemed to be the consumer of the property given away and must pay tax on the total manufactured cost or purchase price including federal sales tax.

6. Where a vendor manufactures or purchases taxable tangible personal property to be given away with taxable tangible personal property sold by him, he may purchase the tangible personal property of the component materials free of tax by issuing a purchase exemption certificate to his supplier certifying that the tangible personal property is purchased for resale.

7. Where a vendor manufactures or purchases taxable tangible personal property to be given away with non-taxable tangible personal property sold by him, he is deemed to be the consumer of those goods he purchased to be so given away and must pay tax to his supplier on the purchase price charged therefor.

[¶ 9165]

O.C. 172. Concerning certain fiscal concessions to non-Canadian representatives of foreign countries to the International Civil Aviation Organization.

WHEREAS representations have been made requesting that representatives of foreign countries to the International Civil Aviation Organization benefit from fiscal concessions;

WHEREAS it is deemed advisable to give effect to such representations;

WHEREFORE, it is ordered, upon the recommendation of the Minister of Revenue:

1. THAT the International Civil Aviation Organization (ICAO), the President of the Organization, the Secretary-General, the five Directors of the Organization, as well as the Official Representatives of each nation member of the said Organization, who are career officers and not nationals of Canada and the Province of Quebec, who do not operate a business or fulfill a function of employment in the Province,

O.C. 172—continued

other than this appointment on behalf of the nation which they represent, benefit from the hereinafter specified fiscal concessions, under condition that the country represented by such official grants similar privileges to representatives of the Province in such country:

* * * * *

- (e) Exemption from the tax payable under the *Retail Sales Tax Act*, by way of a refund and pursuant to the procedure to be set by the Department of Revenue;

* * * * *

[¶ 9170]

O.C. 1104. Concerning certain fiscal concessions to foreign Commissioners-General, members of their staff, officials of the Bureau of International Exhibitions and the Canadian Universal and International Exhibition, Montreal, 1967.

WHEREAS representations have been made in order to enable certain officials of foreign countries taking part in the Canadian World Exhibition of 1967 to benefit from fiscal concessions for the duration of their stay in the Province of Quebec;

WHEREAS it is deemed advisable to grant such requests;

WHEREFORE it is ordered, upon the recommendation of the Minister of Revenue:

1. THAT the foreign Commissioners-General and their assistants be granted the following fiscal concessions, provided that they are citizens of foreign countries and that they do not operate a business in Canada nor exercise functions other than those which they perform for such foreign country;

* * * * *

- (d) exemption from the tax payable in virtue of the *Retail Sales Tax Act*, by way of reimbursement and according to the procedure to be determined by the Minister of Revenue;

* * * * *

[¶ 9175]

O.C. 1480. Representatives of Foreign Countries. — Concerning certain fiscal concessions to non-Canadian representatives of foreign countries.

WHEREAS representations have been made requesting that various representatives of foreign countries holding an appointment in the Province, benefit from fiscal concessions;

WHEREAS it is deemed advisable to give effect to such representations;

WHEREFORE, it is ordered, upon the recommendations of the Minister of Revenue :

THAT consuls, or vice-consuls, commercial agents, heads of a permanent delegation, who are career officers and not nationals of Canada and the Province of Quebec, who do not operate a business or fulfil a function or employment in the Province other than their appointment on behalf of the government which they represent, benefit from the hereinafter specified fiscal concessions, under condition that the country represented by such officials grant similar privileges to representatives of the Province in such country ;

* * * * *

4. Exemption from the tax payable under the *Retail Sales Tax Act*, by way of refund and pursuant to the procedure to be set by the Minister of Revenue ;

* * * * *

THAT the aforesaid exemptions be granted as of the date of adoption of this Order in Council with the exception that exoneration from the payment of the tax payable under the *Telecommunications Tax Act* will be retroactive to May 1, 1965.

THAT this Order in Council replace Order in Council number 2012, dated September 28, 1961.

* * * * *

[¶ 9180]

O.C. 1532. Purchases Delivered to Common Carriers for Delivery outside Province.— Concerning the purchase of moveable objects delivered to common carriers to be delivered outside the Province of Quebec and the *Retail Sales Tax Act*, Chapter 71, R.S.Q. 1964, and amendments.

WHEREAS section 27 of Chapter 71, R.S.Q. 1964 and amendments allows the Lieutenant-Governor in Council to enact regulations for the purpose of carrying into effect the provisions of this Act ;

WHEREAS it is necessary to regulate deliveries made to common carriers by land, sea and air, for delivery of merchandise outside the Province of Quebec ;

WHEREFORE, IT IS ORDERED, upon the recommendation of the Minister of Revenue ;

THAT the present regulation be adopted to take effect as from the date of its publication in the *Official Gazette*.

O.C. 1532—continued

Regulation number "3"

Any vendor who delivers tangible moveable objects to a common carrier by land, sea or air, authorized as such for delivery outside the Province of Quebec, is not required to collect the sales tax on these objects if he can exhibit a copy of the bill of lading certified by the common carrier.

Any vendor who delivers tangible moveable objects outside the Province of Quebec, by mail, is not required to collect the sales tax on these objects if such vendor can exhibit a receipt from the Post Office Department indentifying the purchaser and the sender and provided also that the vendor can satisfy the Department of Revenue as to the nature of the objects delivered.

THAT the present Order in Council replace Order in Council number 2485, dated December 29th, 1964.

[¶ 9185]

O.C. 1594. Foreign Exhibitors at Canadian World Exhibition of 1967.—Concerning the *Retail Sales Tax* and the Canadian World Exhibition of 1967.

WHEREAS section 44 of the *Department of Revenue Act* (Revised Statutes 1941, chapter 73) permits the Lieutenant-Governor in Council, whenever he deems it to be in the public interest and when great public inconvenience would otherwise ensue, to remit any tax, duty or toll payable to the Crown, and moreover provides that such remission may be made by a general regulation ;

WHEREAS it is deemed necessary to adopt, under the provisions of this section, a general regulation providing for the remission, under certain conditions, of the tax levied under the *Retail Sales Tax Act* (Revised Statutes, 1941, chapter 88) and payable by any Country, State, Province of Canada other than the Province of Quebec, taking part in the Canadian World Exhibition of 1967 ;

WHEREFORE it is ordered upon the recommendation of the Minister of Revenue :

THAT the following regulation be adopted :

"Regulation concerning the remission of the *Retail Sales Tax* to a Country taking part in the Canadian World Exhibition of 1967 as an exhibitor."

1. In the present regulation, the following terms mean :

- (a) "Exhibition": the Canadian World Exhibition of 1967, authorized to take place by decision of the Board of the International Bureau of Exhibitions taken on November 13th, 1962 ;
- (b) "Department": the Department of Revenue ;

- (c) "Minister": the Minister of Revenue;
 - (d) "Participating Country": a Country, a State, or a Province of Canada other than the Province of Quebec, taking part in the Exhibition as an exhibitor and having submitted to the Minister a request for exemption, accompanied by a certificate of the Exhibition Board certifying that it has been granted space on the Exhibition grounds.
2. The Retail Sales Tax shall not be levied:
- (a) On building material and other moveable property imported on a temporary entry form in the name of or on behalf of a participating country for use during the Exhibition;
 - (b) On building material and moveable property purchased from Canadian suppliers residing outside the Province of Quebec;
 - (c) On building material and moveable property purchased from suppliers residing in the Province of Quebec;
 - (d) On building material used for the construction and maintenance of any building, stand and booth intended for the display, demonstration and storage of the exhibits, as approved by the Exhibition Board. This exemption does not apply to contractors' and subcontractors' tools and equipment.
3. (a) In the case mentioned in sub-paragraph "a" of section 2, the temporary entry forms shall be placed at the disposal of the representatives of the Department of Revenue of the Province of Quebec;
- (b) In the cases mentioned in sub-paragraphs "b" and "c" of section 2, the participating countries shall issue "purchase certificates" to their suppliers at the time of each of their purchases. Such "purchase certificates" must be delivered to the participating countries by the Department of Revenue of the Province of Quebec;
- (c) In the case mentioned in sub-paragraph "d" of section 2, the participating countries must issue "purchase certificates" to any contractor and sub-contractor with whom they directly do business.

Contractors awarding sub-contracts without the intermediary of participating countries must, themselves, issue "purchase certificates" to the sub-contractors.

Such contractors shall obtain the certificates from the Retail Sales Tax Service of the Quebec Department of Revenue and must conform with the requirements of the said Service.

In addition to supplying a list of sub-contractors, contractors must file a monthly report showing the value of the building material used by term and their sub-contractors in the execution of their contracts.

O.C. 1594—continued

The “purchase certificates” shall be numbered consecutively. They must be signed by an authorized person and prepared in duplicate, the original intended for the supplier and the copy remaining in the hands of the contractor or of the participating country.

4. This exemption is granted on condition that the moveable property thus exempted shall thereafter be:

- (a) Exported outside the Province of Quebec;
- (b) Destroyed at the owner’s expense and under the supervision of a representative of the Department;
- (c) Donated free of charge to the Government of Canada, of a Province or to a municipal corporation:

5. This exemption is also granted on condition that the buildings erected with building material mentioned in section 2 be given, free of charge, to the Government of Canada, of a Province or to a municipal corporation, or demolished at the owner’s expense with the knowledge of the Department.

[¶ 9190]

O.C. 1925. Effective Date of Amendment. — WHEREAS, following representations made by shipbuilders, the government informed them that it was its intention to propose an amendment to Chapter 88 of the Revised Statutes of Quebec, 1941, the object of which would be to exempt from the Retail Sales Tax, tugs, cargo-ships and passenger ships other than pleasure yachts;

WHEREAS, the interested parties received assurances that this amendment would become effective as of the date on which the Budget Speech was delivered;

WHEREAS, the Budget Speech was made on April 5th, 1963, and the interested parties, acting in good faith, governed themselves accordingly;

WHEREAS, when Chapter 27 of the *Act 12 Elizabeth II*, amending the *Retail Sales Tax Act* was sanctioned, it was inadvertently forgotten to specify that the exemption concerning tugs, cargo-ships and passenger ships, other than pleasure yachts, would become effective as of April 5th, 1963;

WHEREAS, as a result of such omission, an injustice to the taxpayers concerned may occur, contrary to public interest;

WHEREAS, according to section 44 of the Act respecting the Control of Provincial Revenue, Chapter 73 of the Revised Statutes of Quebec, 1941, the Lieutenant-Governor in Council may remit any tax, duty or toll payable to the Crown whenever he deems it in the public interest or where injustice to individuals would otherwise ensue;

WHEREFORE, IT IS ORDERED, upon the recommendation of the Minister of Revenue:

THAT the exemption provided for by paragraph "A" of section 9 of the *Act 12 Elizabeth II*, Chapter 27, take effect upon all deliveries made as from April 5th, 1963.

[¶ 9195]

O.C. 2369. Purchase Made for Own Use or Consumption by Manufacturers.—Regulation concerning the payment of the retail sales taxes on purchases for use or consumption by manufacturers selling or delivering within and without the Province.

- 1: (a) Manufacturers, whose establishment is situated within the Province, are subject to the payment of the Provincial sales tax on the purchases made for their own use or consumption, and which do not form a component part of the products which they manufacture.
- (b) Such manufacturers, who sell and deliver within and without the Province, may pay the Provincial sales tax, on the purchases made for their own use or consumption, in the proportion of their sales or deliveries in the Province to the total sales of their establishments situated in the Province, but in no case shall this proportion be inferior to $33\frac{1}{3}\%$.

In the calculation of the proportion of the Provincial sales tax payable, the following rules shall be followed:

- I—When a sale is made for resale purposes to a purchaser domiciled in the Province, with stipulation that the delivery is to be made without the Province, this sale is considered as a sale made within the Province;
- II—When a sale is made to a purchaser domiciled without the Province, with stipulation that the delivery is to be made within the Province, this sale is considered as a sale made within the Province;
- III—When a sale is made to the Dominion Government, to a Crown company, to a company controlled by the Dominion Government or to any agency of the Dominion Government, this sale is considered as a sale made within the Province;
- IV—When a sale is made for use or consumption purposes to a purchaser doing business within and without the Province, and when the merchandise purchased is used partly without the Province, this sale is considered as a sale made within the Province, but in the proportion of what will be used or consumed by this purchaser within the Province;

O.C. 2369—continued

V—When a sale is made F.O.B. Quebec to outside companies, and when the merchandise is shipped without the Province, this sale is considered as a sale made without the Province, even if the contract of sale is made within the Province;

VI—When a sale is made to a subsidiary or affiliated company selling only the products manufactured by its parent company or by an affiliated company under the same control, such sale is considered as a sale made without the province if the merchandise is shipped without the province.

Provision III is effective as of February 28, 1945, provisions IV and V are effective as of January 1, 1946, and provision VI is effective March 24, 1949.

2. Manufacturers who desire to avail themselves of the above regulations shall submit their request to this effect to the Sales Tax Service, and then, on or before the 1st of May of each year, file a sworn declaration establishing the percentages mentioned in this regulation, based on their sales figures for their last fiscal year ended on or before the 1st of April.

3. Such percentages, if in conformity with facts, will be used to establish the amount of sales taxes payable by manufacturers on purchases made for their use or consumption between the 1st of April following the end of their fiscal year and the 31st of March of the following year.

4. Manufacturers who pay the sales tax on a percentage basis must indicate on their monthly returns the total amount of their purchases for use or consumption, and the percentages upon which they have calculated the sales taxes due and payable on those purchases.

5. In the case of manufacturers who manage or control subsidiary manufacturing companies, or are managed or controlled as subsidiaries of other manufacturing companies, each manufacturer must be considered as a distinct manufacturer, must produce his own report, and must pay the sales tax according to the percentage established.

6. It is not permissible for a manufacturer to pay on a percentage basis the sales tax due on purchases which are not for the use or consumption of the manufacturer. The sales tax must be paid in full on all purchases made for the personal use or consumption of the manufacturer, his family or his employees.

7. For the purposes of the present regulations, the words "subsidiary company" mean a company of which more than 50% of the issued share capital is held as an asset by another company, either directly or through a nominee or by a company of which it has the power directly or indirectly to appoint the majority of directors.

8. Where a person is a manufacturer of tangible personal property and arranges to subsidize a vendor of premium goods for each article of premium goods sold or for a specified amount of premium goods sold, the manufacturer is deemed to be the consumer of premium goods to a value equal to the amount of subsidy so paid and must pay tax at 6 per cent thereof.

9. In addition to the tax collectable under subruling 8, the vendor of premium goods must charge tax at 6 per cent of the price paid by any person who acquires premium goods from him.

10. Every person who acquires tangible moveable property as a premium in exchange for redeemable coupons or non-monetary paper, such as coupons, stamps and others of a similar nature plus a monetary consideration, is obliged to pay the tax thereon to the premium house that must collect and remit it on the retail value of such premium goods.

[¶ 9200]

O.C. 2369. Purchase Made for Own Use or Consumption by Mining Companies.—Regulation governing the payment of the retail sales tax on purchases, for own use or consumption, made by mining companies who sell or deliver within and without the Province or who have not reached the stage of production for the market.

1. Mining companies whose establishments are situated within the Province, are subject to the payment of the Provincial sales tax on purchases made for their own use or consumption.

2. Producing mining companies:

(a) Producing mining companies, selling and delivering within and without the Province, may pay the Provincial sales tax, on purchases made for their own use or consumption, on the proportion of their sales or deliveries in the Province to the total sales of their establishments situated in the Province, but in no case shall this proportion be inferior to 20%.

For the purpose of establishing the above proportion, the following rules must be followed:

I—When a sale is made to a purchaser domiciled in the Province, with stipulation that the delivery will be made outside the Province, this sale is considered as a sale made within the Province.

II—When a sale is made to a purchaser domiciled outside the Province, with stipulation that the delivery will be made in the Province, this sale is considered as a sale made within the Province;

O.C. 2369—continued

III—When a sale is made to the Government of Canada, to a Crown Company, to a company controlled by the Government of Canada or to any agency of the Government of Canada, the sale is considered as a sale made within the Province. The sale of gold bullion to the Government of Canada is considered as made outside the Province as long as mining companies shall be obliged to sell this metal to the Government of Canada;

IV—When a sale is made F.O.B. Quebec to outside companies, and when the merchandise is shipped without the Province, this sale is considered as a sale made without the Province, even if the contract of sale is made within the Province;

V—When a sale is made to a subsidiary company selling only the products manufactured by its parent or principal company, this sale is considered as a sale made without the Province, if the merchandise is shipped without the Province.

(b) Mining companies who desire to avail themselves of this ruling must submit their request to this effect to the Sales Tax Service, and before the 1st of May of each year, file a sworn declaration establishing the percentage mentioned in these regulations, based on their sales figures for their last fiscal year ended on or before the 1st of April. Such percentage will be used as a basis for the payment of the sales tax on purchases made for their own use or consumption from the 1st of April following the end of their fiscal year to March 31st, of the following year.

3. Non-producing mining companies.

(a) Mining companies not having reached the stage of production for the market at the expiration of their last fiscal year ended before April 1st, may pay the Provincial sales tax, on the purchases made for their own use or consumption, on a fixed basis of 20% of the value of such purchases.

(b) Such mining companies who desire to avail themselves of this regulation must submit their request to this effect to the Sales Tax Service, and then on or before the 1st of May of each year file a sworn declaration to the effect that they had not yet reached the stage of production for the market at the end of their last fiscal year ended before the 1st of April, together with a copy of their balance sheet and profit and loss statement.

Rules applicable to all mining companies

4. Mining companies operating a subsidiary company, or operated as a subsidiary mining company, are to be considered as distinct legal entities for the purpose of the establishment of the sales per-

centage, and must therefore file separate returns; no consolidated return will be accepted covering the operations of several mining companies.

5. It is not permissible for a mining company to pay on a percentage basis the sales tax due on purchases which are not for the use or consumption of the mining company. The sales tax must be paid in full on all purchases made for the personal use or consumption of the directors of the mining company, their family or their employees.

6. For the purposes of the present regulations, the words "subsidiary company" mean a company of which more than 50% of the issued share capital is held as an asset by another company, either directly or through a nominee or by a company of which it has the power directly or indirectly to appoint the majority of directors.

The present Order in Council replaces Orders in Council numbers 318 of March 24, 1949, 461 of May 5th, 1949 and 1282 of November 11th, 1959.

QUEBEC

THE AMUSEMENT TAX ACT

(Chapter 76, R.S.Q. 1964 as amended)

[¶ 9301]

Sec. 1. [Definitions].—For the purposes of this act:—

(1) “*Place of amusement*”.—The words: “place of amusement” shall mean and include every theatre, moving-picture hall, concert hall, music hall, hall for dancing or for other amusements, circus, side-show, menagerie, baseball park, athletic park, amusement park, skating-rink, or other place where an exhibition or entertainment is given or game played, save race-meetings, and where an entrance fee is charged or collected through the sale of tickets or otherwise;

[¶ 9305]

(2) “*Price of admission*”.—The expression: “price of admission” means and includes any payment made to attend or take part in any amusement.

[¶ 9310]

Sec. 2. Duty payable.—No person shall attend or take part in an amusement at any place of amusement, without having previously paid to the municipality where such place of amusement is situated a duty equal to ten per cent of the price of admission. Every fraction must be counted as a whole.

[¶ 9315]

Sec. 3. [Exception].—The duty shall not be payable by a person required to pay a price of admission in order to take an active part in an athletic sport.

(1965, c. 32, s. 1.)

[¶ 9320]

Sec. 4. (*Repealed by 1965, c. 32, s. 1.*)

[¶ 9330]

Sec. 5. Duty exigible, Exceptions, Proviso.—The duty shall be exigible in all cases, except where the amusement is given under the four following conditions, to wit:

- (a) By organizers and amateurs residing in the Province, who receive no remuneration whatever for their services on such occasion;
- (b) In a church or in a workmen's or parish hall for the use of which, for such purpose, no rent or other remuneration is paid; however, the payment by the organizers to the owner of the place of amusement of the exact cost of the lighting, heating and cleaning of the place of amusement, occasioned by the performance, shall not be considered as a remuneration, provided that such cost does not exceed twenty dollars in local municipalities the population whereof exceeds twenty-five thousands souls, and does not exceed ten dollars elsewhere;
- (c) When the total gross proceeds derived therefrom are used exclusively for a charitable, agricultural or religious purpose, and
- (d) When such amusement does not comprise any moving pictures,—
provided that the person, society or association giving the amusement shall have previously applied for the required exemption from the municipal officer, who is entitled to grant or refuse such exemption. Such an application must be sworn to before a revenue officer, a notary, a justice of the peace or a commissioner of the Superior Court.

(1965, c. 32, s. 2.)

[¶ 9340]

Sec. 6. Complimentary ticket, etc.—The holder of a complimentary or season ticket, and every person who is admitted free into a place of amusement to attend or take part in an amusement shall pay the duty based on the price of admission that he would pay if he did not hold such ticket or was not admitted free.

[¶ 9345]

Sec. 7. Collection, Commission.—Until otherwise provided for by by-law of the municipality where the place of amusement is situate, the duty shall be collected by the keeper of or person operating such place of amusement, by means of tickets and receptacles, both supplied by the owner of the places of amusement and controlled by the municipality, and the latter may grant to such person or to any other person such commission as it may deem expedient upon the sale of such tickets.

[¶ 9355]

Sec. 8. Amusement parks.—In the case of amusement parks, the municipality may make any arrangement with the proprietors for the fixing of the tax to be collected and the mode of collection.

(1965, c. 32, s. 4.)

[¶ 9360]

Sec. 9. Offences, Penalty.—Every person :

(1) *Patron.*—Who, without having previously paid the duty provided for by this act, enters a place of amusement for the purpose of attending a performance or for the purpose of taking part in any amusement whatever in such place ; or,

[¶ 9365]

(2) *Keeper, etc., Penalty.*—Who, being the keeper of or the person operating a place of amusement or being one of the employees of such keeper or person, permits or authorizes, or is a party or privy to, the admission of any person to a place of amusement, for the purpose of attending a performance or taking part in any amusement therein without payment of the duty provided for by this Act, shall be guilty of an offence, and liable to a fine of not less than ten dollars nor more than two hundred dollars, and costs, and, on failure to pay such fine and costs, to imprisonment for not more than ten days.

[¶ 9370]

Sec. 10. Employer's responsibility.—Every person who keeps or operates a place of amusement may be sued personally for any infringement of the provisions of paragraph 2 of section 9, committed by anyone in his employ, unless he prove that such infringement was committed without his knowledge and authorization.

[¶ 9375]

Third condemnation.—In the event of a third condemnation for an infringement of the provisions of paragraph 2 of section 9, rendered against the person keeping or operating the place of amusement, the license shall be cancelled.

[¶ 9380]

Sec. 11. Corporation, etc.—Whenever any infringement of the provisions of this act has been committed by a firm or corporation, whether having a license or not under the *License Act* (Chap. 79), and when judgment has been rendered under this act against a firm or corporation, such judgment may, on failure of such firm or corporation to pay the fine and costs, be executed, in the case of a firm, against each member of the firm ; in the case of a corporation, against its president if he is in the Province, and if not, against its manager or representative in the Province, and the sentence of imprisonment may be rendered against such member or officer, as the case may be.

[¶ 9385]

Sec. 12. General penalty.—Every infringement of the provisions of this act not otherwise provided for shall be punishable by a fine of

not less than twenty dollars nor more than one hundred dollars, and costs, for each offence, and, failing payment of the fine and costs, by imprisonment for not more than two months.

[¶ 9390]

Sec. 13. Application of fines.—The fines imposed by this Act belong to the municipality in which the offence was committed.

(1965, c. 32, s. 5.)

[¶ 9395]

Sec. 14. Inspection.—Any officer authorized by the chief of police of the municipality, may enter free and without paying any entry duty any place of amusement, to ascertain if the provisions of this act are complied with.

(1965, c. 32, s. 6.)

[¶ 9400]

Sec. 15. Municipal regulations.—Every municipality may make such regulations as may be deemed expedient for the purpose of carrying into effect, in its territory, the provisions of this act.

[¶ 9405]

Sec. 16. Apportionment of duties.—The duties collected under this act, or under any by-law or resolution passed thereunder belong to the municipality where the place of amusement is situate.

(1965, c. 32, s. 7.)

[¶ 9410]

Sec. 17. Grants to hospitals, etc.—Any municipality which, under any law or by-law in force prior to the 22nd of December, 1916 was bound to distribute to hospitals and charitable institutions one cent out of each entrance duty collected for admission to a place of amusement, after deducting from such one cent its proportion of the expenses incurred for the imposition, collection and administration of such entrance duties, shall be bound to do so hereunder in the manner established by such law or by-law.

[¶ 9415]

Sec. 18. Unorganized territory.—The Lieutenant-Governor in Council may, by proclamation, order that from the date mentioned in such proclamation, the municipality therein designated, situated in the vicinity of an unorganized territory in which a place of amusement is established and operated, shall have jurisdiction with respect to the collection of the entry duty in such place of amusement, and that the provisions of this act shall apply, *mutatis mutandis*, to such collection.

QUEBEC

AMUSEMENT TAX REGULATIONS

[¶ 9451]

O.C. 622. Returns and Collection.—The Honourable the Provincial Treasurer, in a memo dated March 9th, 1932, recommends:

That any person keeping a place of amusements in the Province of Quebec be bound to mail monthly to the Comptroller of the Provincial Revenue, at Quebec, a list showing the quantity of tickets sold each day during the preceding calendar month, giving each denomination with the amount of the tax and the amount of the surtax, each day;

That any municipality where there is one or many places of amusements shall be entrusted with the collection and remittance of this surtax, in consideration of a commission of 2% upon the amount of the surtax. The remittance shall be made monthly by a cheque of the Municipality for the amount to be remitted. (*Approved March 10, 1932.*)

QUEBEC

THE MEALS AND HOTELS TAX ACT

(Chapter 73, R.S.Q. 1964 as amended)

MEALS AND HOTELS TAX ACT

[¶ 9501]

Sec. 1. [Establishment defined].—(1) In this act the word “establishment” designates:

- (a) a hotel or a restaurant within the meaning of the *Hotels Act* (Chap. 205),
- (b) premises where alcoholic beverages are sold for consumption there,
- (c) a railway train or a ship in the Province, on which meals or alcoholic beverages are served,
- (d) an enterprise which sells, delivers or serves meals for consumption elsewhere.

[¶ 9505]

(2) *Idem.*—Nevertheless, such word does not designate:

- (a) a tavern within the meaning of the *Liquor Board Act* (Chap. 44),
- (b) a boarding-house which is not obliged to procure a license under the *Hotels Act* (Chap. 205), of a lodging-house within the meaning of the said act,
- (c) an educational, charitable, hospitalizing or sheltering institution or other similar institution.

(1965, c. 30, s. 1.)

[¶ 9510]

Sec. 2. [Rate of tax].—(1) A tax of six per cent is imposed on the price owing or paid of each meal of one dollar and twenty-five cents or more, given or taken in an establishment or sold, delivered or served by a person who keeps an establishment.

[¶ 9515]

(2) *[Calculation of tax]*.—Every fraction of a cent of such tax shall be counted as a whole.

Sec. 2—continued

[¶ 9520]

(3) [*Price includes beverages*].—The price of the meal shall include also that of the beverages sold, delivered or served with the meal.

[¶ 9525]

(4) [*Alcoholic beverages*].—The tax contemplated in subsection 1 is also imposed on the price of any alcoholic beverage sold in an establishment for consumption there and on the price of any liquid sold or served with such beverage.

[¶ 9530]

(5) [*Lodging*].—Such tax is also imposed on the price of lodging in an establishment.

[¶ 9535]

(6) [*Employees of establishment*].—Such tax shall not be payable by persons employed in an establishment in respect of lodging or meals, exclusive of alcoholic beverages, supplied to them by the person who keeps the establishment.

(1965, c. 30, s. 1.)

[¶ 9540]

Sec. 3. Voucher.—(1) The person who keeps an establishment must prepare and keep a bill or account of the price of the meals, beverages or lodging supplied on which the amount of the tax must be inscribed separately. Such duty shall be paid, by the person who owes or is paying such bill or account, to the person keeping the establishment, who acts, in such case, as an agent for the Province and must collect and remit such duty monthly, to the Minister of Revenue.

[¶ 9545]

(2) *Indemnification*.—The Minister of Revenue may indemnify the person keeping the establishment for the collection and remittance of the duty.

[¶ 9550]

(3) *Monthly report*.—Any person who keeps an establishment or to whom a registration certificate has been issued under section 5, shall furnish the Minister of Revenue, within the first fifteen days of each month, with a report in the form prescribed by him of the amount of tax collected by such person during the preceding month, even if nothing has been collected. (1965, c. 30, s. 2.)

(1965, c. 30, s. 2.)

[¶ 9555]

Sec. 4. Single meal-check.—When there is a single meal-check for several persons, it shall not be divided by the number of persons.
(1965, c. 30, s. 3.)

[¶ 9560]

Sec. 5. [Registration certificate].—(1) No person shall keep an establishment unless, upon his application, a registration certificate has been issued to him under this act and is in force.

[¶ 9565]

(2) [*Application*].—The application for a registration certificate shall be sent to the Minister of Revenue.

[¶ 9570]

(3) [*Granting and keeping*].—Such registration certificate shall be issued by the Minister of Revenue or any other person designated by him. It shall be kept at the principal place of business of the person keeping the establishment, and shall not be transferable.

[¶ 9575]

(4) [*Refusal to issue*].—The Minister of Revenue shall refuse a registration certificate to a person who has not complied with the *Liquor Board Act* (Chap. 44) or the *Hotels Act* (Chap. 205).

[¶ 9580]

(5) [*Refusal to sign*].—The Minister may refuse a registration certificate to any person found guilty of an infringement of this act.

[¶ 9585]

(6) [*Suspension or cancellation*].—He may also, in the case of a person found guilty of such infringement, suspend or cancel the certificate.

(1965, c. 30, s. 4.)

[¶ 9590]

Sec. 6. Disposal of proceeds.—The proceeds of this duty shall be paid into the consolidated revenue fund.

[¶ 9595]

Sec. 7. [Offence and penalty].—Any person who,

- (a) keeps an establishment without being the holder of a registration certificate, or
- (b) being an agent of the Province, refuses or neglects to collect the tax, to keep account thereof, or to report or remit the same in accordance with this act and the regulations, or

Sec. 7—continued

- (c) refuses to permit a revenue officer to examine and audit his books and documents,

shall be guilty of an offence and liable, on summary proceeding, in addition to costs and to the obligation to report and remit the tax, to a fine of fifty to one thousand dollars.

(1965, c. 30, s. 5.)

[¶ 9600]

Sec. 8. Injunction.—In addition to the recourses specifically provided in this act, for any infringement of its provisions, the Attorney-General of Her Majesty in the right of the Province may apply to a judge of the Superior Court for an injunction against any person who keeps an establishment within the meaning of this act without first having obtained or without holding a registration certificate still in force, ordering the closing of his establishment until a registration certificate has been issued or delivered to him and all costs have been paid.

[¶ 9605]

[*Exemption from security*].—The Attorney-General shall not be required to give security.

(1965, c. 30, s. 5.)

[¶ 9610]

Sec. 9. Privilege of Crown.—All sums due to the Crown in virtue of this act shall constitute a privileged debt, ranking immediately after law costs, notwithstanding the provisions of articles 1994 and 2009 of the Civil Code.

[¶ 9615]

Sec. 10. Regulations.—The Lieutenant-Governor in Council may make, amend, replace and repeal any regulations and forms which he may deem necessary for the carrying out of the foregoing sections.

He may also, by regulation, require that the person who keeps the establishment:

- (a) Shall make use of the system of vouchers determined in the regulation in order to enable the Crown to verify the collection and remittance of the duty;
- (b) Shall receive the auditor in the establishment and deliver to him the books and documents which such officer may require.

[¶ 9620]

Sec. 11. Prosecutions.—Prosecutions under the foregoing sections shall be taken in the name of the Deputy Minister of Revenue, before a justice of the peace, a judge of sessions, or a district judge, and shall be governed by Part I of the *Summary Convictions Act* (Chap. 35).

QUEBEC

MEALS AND HOTELS TAX REGULATIONS

[¶ 9651]

O.C. 2193. Concerning the system of vouchers, the auditing of books and documents and the *Meals and Hotels Tax Act* (R.S.Q. 1964, ch. 73 and amendments).

WHEREAS under section 10 of the *Meals and Hotels Tax Act* (R.S.Q. 1964, ch. 73 and amendments) the Lieutenant-Governor in Council may make regulations concerning the system of vouchers and the auditing of books and documents ;

WHEREAS it is necessary to amend the regulations enacted by Order in Council number 1334 of August 16th, 1962.

WHEREFORE, IT IS ORDERED, upon the recommendation of the Minister of Revenue :

THAT the regulations concerning the *Meals and Hotels Tax Act* enacted by Order in Council number 1334 of August 16th, 1962, be superseded by the following regulations :

“Regulations concerning the meals and hotels tax, the form, the use and the auditing of vouchers.”

[¶ 9655]

1. *Definitions*: In the present regulations :

- (a) The word “check” means the document or the statements indicating the amounts which one must pay for the meals and/or the alcoholic beverages which have been served and/or the lodging furnished in an establishment as defined in section 1 of the *Meals and Hotels Tax Act*;
- (b) The word “director” means the head of the Service of the Department of Revenue assigned to the administration of the *Meals and Hotels Tax Act*;
- (c) the word “numbering” means the act of printing in advance and in a consecutive order a number on each check in use in an establishment, such numbering having beforehand been controlled and approved by the Director.

[¶ 9660]

2. *Form and contents of the check*: The check for the price of the meals and alcoholic beverages and/or lodging required by the *Meals and Hotels Tax Act* may be on paper or on cardboard and must include the following :

O.C. 2193—continued

- (a) *A consecutive numbering printed on each check:* such numbering must be set and controlled by the Director;
- (b) *The date of writing up of the check:* which must be that of the day when the meals and/or alcoholic beverages are served, and/or when the lodging is furnished;
- (c) *The price of the meals and/or alcoholic beverages and/or lodging:* the amount may be written with a pencil. When this amount is printed beforehand, a pencil or punch mark may be made next to the prices of the items served and/or furnished;
- (d) *The amount of the tax:* This amount may be written with a pencil. When this amount is printed beforehand, a pencil or punch mark may be made next to the amount of tax payable.

[¶ 9665]

3. *Writing up of the check:* As a general rule, a check must be issued for each person taking a meal, alcoholic beverages or lodging in an establishment as defined in section 1 of this act:

- (a) Every check issued must indicate the price of the meal including the price of the beverages and the price of the alcoholic beverages and the amount of the tax. If the meal of a person consists of food and/or beverages and/or alcoholic beverages, which are paid for as they are consumed, the total amount so paid constitutes the price of the meal and if the total is one dollar and twenty-five cents or more, the tax is exigible. It is understood that the alcoholic beverages are taxed whatever the price paid may be;
- (b) When a meal includes alcoholic beverages and when the price of such meal and alcoholic beverages is one dollar and twenty-five cents or more, the total price is subject to the tax; when the price of the meal and the alcoholic beverages does not exceed one dollar and twenty-five cents, only the price of the alcoholic beverages is subject to the tax.

If a person pays for the meals and/or the alcoholic beverages consumed by several persons, a single check may be issued for all those meals and/or alcoholic beverages. When several checks have been issued for several persons and paid for by only one person, the tax payable is computed separately on the amount of each check, whatever the amount may be.

- (c) A check must also be completed for the lodging furnished, whatever the price paid;
- (d) If a member of a club pays his bill only periodically and if this club has a bookkeeping system approved by the Director, the member's statement for meals, alcoholic beverages and lodging charged to his account for the period may stand for the check.

[¶ 9670]

4. *Supply of blank checks*: Blank checks which must be used in an establishment are supplied free of charge by the Meals and Hotels Tax Service to the person operating an establishment, unless the latter supplies his own.

An establishment wishing to print its checks according to its own specifications, must submit to the Director of the Service a request to that effect, mentioning the quantity of checks to be printed, the numbers used, the name and address of the printer. The draft form of the checks must meet with the requirements of the present regulations. A draft of the check to be printed must be submitted to the Director of the Service. An establishment cannot use its own checks without the written consent of the Director;

[¶ 9675]

5. *The check*: (a) must have been prepared by the person operating the establishment or by one of his duly authorized employees;

(b) must be used only once;

(c) must not be used for any other purposes than those mentioned in the act and the present regulations;

(d) must be kept by the person operating the establishment until its destruction has been authorized by the Deputy Minister of Revenue;

(e) must not serve as a receipt.

[¶ 9680]

6. *Boarder*: In the case of a boarder where the payment for board is a fixed total amount including meals, alcoholic beverages and lodging, the tax applies to such a total amount, unless the contract indicates the cost of each meal separately, in which case only the meals listed at one dollar and twenty-five cents or more, the alcoholic beverages and lodging are subject to the tax.

[¶ 9685]

7. *Bookkeeping*: The holders of several licenses from the Quebec Liquor Board, i.e. the establishments referred to in paragraph 1 of section 1 of the act, operating several licences from the Quebec Liquor Board, must keep a separate set of books for sales made under each license.

[¶ 9690]

8. *Documents to be kept for auditing purposes*: The operator of an establishment referred to in section 1 of the *Meals and Hotels Tax Act* has to receive the auditor of the Department of Revenue. He must

O.C. 2193—continued

also produce all books, documents and financial statements required for auditing purposes:

- (a) Any establishment must keep at its principal place of business in the Province of Quebec an accounting system and complete set of documents allowing the officers of the Department of Revenue acting under the provisions of section 10 of the *Meals and Hotels Tax Act* to verify the amount of the tax collected as well as the accuracy of the remittances made;
- (b) As regards purchases, retain in his possession the books and documents allowing the detailed audit of all purchases made for resale, whether paid or unpaid;
- (c) As regards sales, keep in his possession the books and documents allowing the audit:
 - 1. of the details of each and every sale, indicating the price made for cash or on credit, whether or not they are subject to the tax; consequently, he must keep all the checks indicating the price of a meal and/or alcoholic beverages and/or lodging, whatever the amount shown on the check may be, and must produce them to the auditor;
 - 2. of the details of each cash or credit sale made to persons purchasing for resale, their respective name, address and registration number;
- (d) Any establishment must keep in its possession all bills of purchases, bills of sales, bills of lading, delivery receipts, cancelled cheques, letters, invoices, financial statements and all other books and documents allowing the auditors of the Meals and Hotels Tax Service to verify the amount of tax collected for each sale and also the accuracy of the remittances made by the persons acting as agents of the Minister of Revenue of the Province. None of these books or documents may be destroyed without the written consent of the Deputy Minister of Revenue of the Province of Quebec;
- (e) Any establishment must keep its books from day to day in order to be able to give all the information required above.

QUEBEC

THE TELECOMMUNICATIONS TAX ACT

(Chapter 28, 1965)

[¶ 9701]

Sec. 1. [Interpretation].—In this act:

- (a) “telecommunication” means a message transmitted by means of electromagnetic waves or otherwise in the form of words, writing, images, symbols or other indications;
- (b) “line” includes the space between a transmitter and a receiver of telecommunications and any other channel of transmission of telecommunications;
- (c) “rent” includes any sum payable for the use of a telecommunication service;
- (d) “user” means a person who sends or receives a telecommunication at his own expense, in the Province, or who uses in the Province a telecommunication service other than a telephone service which is moveable property within the meaning of the *Retail Sales Tax Act* (Revised Statutes, 1964, chapter 71).

[¶ 9705]

Sec. 2. [Rate of tax].—A tax of six per cent is imposed on the price of every telecommunication sent or received by a user, and on the rent due or paid by a user.

In the case of rent payable for the private use of a line partly outside the Province, such tax shall only be imposed in the proportion of the length of the part of the line within the Province to the total length.

If the rent is only partly payable for the private use of such a line, the Minister of Revenue may determine what portion is imputable to such use.

Similarly, if a charge includes rent and payment for anything else, the Minister of Revenue may determine what portion of such charge is rent.

[¶ 9710]

Sec. 3. [Payment].—The tax shall be payable at the same time as the price of the telecommunication or the rent.

The operator of the telecommunication service shall, as agent of the Province, collect it at the same time as the price or rent.

Sec. 3—continued

The operator shall indicate the amount of the tax separately on each invoice.

Every fraction of a cent of such tax shall be counted as a whole.

Nevertheless where a telecommunication is sent through an instrument whereby the price is collected immediately in cash or counters, every fraction of five cents exceeding two cents shall be counted as five cents and every smaller fraction shall be disregarded.

[¶ 9715]

Sec. 4. [Report and remittance].—Every operator of a telecommunication service shall remit to the Minister of Revenue, within the first fifteen days of each month, the tax collected during the previous month and send him a report in the prescribed form even if he has collected nothing.

[¶ 9720]

Sec. 5. [Offence, fine].—Whosoever, as agent of the Province, refuses or neglects to collect the tax, to keep account thereof, to report or to remit the same in conformity with this act or the regulations, or refuses to permit a revenue officer to examine and audit his books and documents, commits an infringement and is liable, on summary proceeding, in addition to the costs and the obligation to report and remit the tax, to a fine of fifty to one thousand dollars.

[¶ 9725]

Sec. 6. [Regulations].—The Lieutenant-Governor in Council may make any regulation deemed necessary for the carrying out of this act and in particular to prescribe the vouchers and documents which an operator must prepare and preserve with a view to controlling, collecting and remitting the tax and to grant to operators an indemnity for such collection and remittance.

[¶ 9730]

[*Publication*].—Every regulation shall be published in the *Quebec Official Gazette*.

[¶ 9735]

Sec. 7. [Effective date].—This act shall have effect from the 1st of May 1965.

[¶ 9740]

Sec. 8. [Coming into force].—This act shall come into force on the day of its sanction.

QUEBEC

THE TOBACCO TAX ACT

(Chapter 72, R.S.Q. 1964 as amended)

[¶ 9801]

Sec. 1. Carrying out of act.—The Minister of Revenue shall have charge of the carrying out of this act.

DIVISION I

[¶ 9803]

INTERPRETATION

Sec. 2. Interpretation.—In this act, unless the context indicates a different meaning:

[¶ 9805]

(1) “*Deputy Minister*”.—“Deputy Minister” means the Deputy Minister of Revenue;

[¶ 9807]

(2) “*consumer*”.—“consumer” means any person who purchases from a vendor tobacco at a retail sale in the Province;

[¶ 9809]

(3) “*Minister*”.—“Minister” means the Minister of Revenue.

[¶ 9811]

(4) “*package*”.—“package” means package, box, tin or other container in which tobacco is contained or sold at a retail sale;

[¶ 9813]

(5) “*person*”.—“person” includes an individual, a firm, a company, a corporation, an association of persons, an estate, a sequestrator, a trustee in bankruptcy, a liquidator, a fiduciary trustee, an administrator or an agent; it shall also include the owner or operator of a vending machine for the automatic sale of tobacco;

[¶ 9815]

(6) “*Province*”.—“Province” means the Province of Quebec;

Sec. 2—continued

[¶ 9817]

(7) “*purchaser*”.—“purchaser” means any person who purchases from a vendor tobacco at a retail sale in the Province;

[¶ 9819]

(8) “*raw leaf tobacco*”.—“raw leaf tobacco” means the unmanufactured tobacco, or the leaves and the stems of the plant;

[¶ 9821]

(9) “*retail sale*”.—“retail sale” means a sale to a consumer for purposes of consumption, and not for resale;

[¶ 9823]

(10) “*retail vendor*”.—“retail vendor” means any person who, within the Province, sells tobacco to a consumer;

[¶ 9825]

(11) “*Department of Revenue*”.—“Department of Revenue” means the Department of Revenue of the Province;

[¶ 9827]

(12) “*sale*”.—“sale” means the ordinary contract of sale and includes exchanges, transfers and barter; it shall also include gifts by vendors;

[¶ 9829]

(13) “*sale price*”, *etc.*—“sale price” or “purchase price” mean a price in money, also the value of services rendered or other consideration or prestations accepted by the seller as price or value of the thing given;

[¶ 9831]

(14) “*tobacco*”.—“tobacco” means tobacco in any form in which tobacco is consumed, and includes snuff, but does not include cigars sold at a retail price of five cents or less each and raw leaf tobacco;

[¶ 9833]

(15) “*vendor*”.—“vendor” includes both wholesale vendor and retail vendor;

[¶ 9834]

(16) “*wholesale vendor*”.—“wholesale vendor” means any person who, within the Province, sells tobacco for the purpose of resale, whether manufactured by himself or any other person.

DIVISION II

[¶ 9835]

LICENSES

Sec. 3. License.—No person may sell tobacco in the Province unless a license therefor has been, upon his application, issued to him under authority of this act, and unless such license be in force at the time of sale.

Such license shall remain in force until revoked for cause by the Minister.

[¶ 9837]

Sec. 4. Application.—The application for the license shall be filed with the Deputy Minister.

[¶ 9839]

Sec. 5. Granting, etc.—Such license shall be granted by the Minister or by such officer as he may appoint, upon payment by the vendor of a fee of one dollar to Her Majesty in the rights of the Province, and shall be kept in the place where the licensee sells tobacco, or at his chief place of business in the Province.

[¶ 9841]

Sec. 6. Cancellation, etc.—The Minister may cancel or suspend the license of any person who has been found guilty of an infringement of this act; he may also refuse to issue a license to any person who has been found guilty of an infringement of this act.

[¶ 9843]

Sec. 7. Information.—The following information must be given when a license is requested:

- (a) By one or more persons doing business under a firm name,—the name and address of such person or persons;
- (b) By a partnership,—the name and address of each partner;
- (c) By a corporation, club, association or syndicate,—the name and address of the president, if he resides in the Province; if not, the name and address of its resident manager or representative, and the address of its place of business in the Province.

DIVISION III

[¶ 9845]

TAXATION

Sec. 8. Tax.—In order to provide for the exigencies of the public service of the Province, every consumer shall pay to Her Majesty in the rights of the Province, at the time of making a purchase of tobacco in this Province, for consumption by himself or by any other person, a tax in respect of the consumption of such tobacco at the rate of twelve per centum of the retail price.

[¶ 9846]

Tax on cigarettes.—In the case of a purchase of cigarettes, the consumption tax so payable shall be six twenty-fifths of one cent per cigarette.

[¶ 9847]

Tax on Cigars.—In the case of cigars for a retail sale price not exceeding ten cents each, the tax so payable shall be one cent per cigar.

(1965, c. 29, s. 1.)

[¶ 9849]

Sec. 9. Bringing tobacco into Province, Report. — Every person ordinarily residing or carrying on business in the Province who, himself or through the intermediary of any other person, brings or causes to be brought into the Province any tobacco, or receives delivery of any such tobacco in the Province, for consumption by himself, shall immediately report the matter to the Deputy Minister and forward or produce to him the invoice, if any, and any other information he may require, and shall then pay to Her Majesty in the rights of the Province the same tax in respect of the consumption of such tobacco as would have been payable if same had been purchased at a retail sale in the Province at the same price.

[¶ 9851]

Sec. 10. Calculation.—The tax imposed by this act shall be calculated separately on every package, and, except for cigarettes, any fraction of a cent shall be computed as one cent. However, in the case of a retail sale of cigars, the tax shall be computed on the retail price of each cigar.

(1965, c. 29, s. 2.)

[¶ 9853]

Sec. 11. Collection.—The tax payable by the purchaser at the time of his purchase shall be collected and accounted for by the vendor, and be remitted by him to the Minister through the Department of Revenue, in such manner as the Lieutenant-Governor in Council may prescribe.

[¶ 9855]

Vendor acts as agent.—The vendor shall act, in such case, as the agent for the Minister and shall account for and remit to him the amounts so collected, within fifteen days immediately following the calendar month during which any sale has taken place.

[¶ 9857]

Sec. 12. Allowance.—The Minister may make an allowance to the vendors for their services in collecting and forwarding the tax to the Revenue Branch, which allowance shall be determined by the Lieutenant-Governor in Council.

[¶ 9859]

Sec. 13. Municipal sales tax.—Notwithstanding any act or by-law to the contrary, no sales tax on the purchase at retail of tobacco by a consumer may be levied by any municipal corporation, and any such sales tax imposed by any such municipal corporation on the purchase at retail of tobacco has been abolished since the first of July, 1940.

[¶ 9861]

Idem.—This section shall also apply to cigars sold at a retail price of five cents or less each and to raw leaf tobacco.

DIVISION IV

[¶ 9863]

ACCOUNTS, REPORTS AND INSPECTION

Sec. 14. Accounts.—(1) The vendor, as agent for the Minister, shall keep and render accounts of the tax collected, in the form and manner established by the Minister.

[¶ 9865]

(2) *Affidavit.*—The account rendered shall be verified by the affidavit or the statutory declaration of the vendor.

[¶ 9867]

(3) *Record of purchases, etc.*—The Minister may require wholesale or retail vendors to keep, in a prescribed form, record of all purchases, sales and deliveries of tobacco made by them, and to forward

Sec. 14—continued

to him copies of such records or extracts therefrom, at such time and in such manner as he deems fit.

[¶ 9869]

(4) *Inspection*.—Any revenue officer authorized to that effect may enter the premises of a wholesale or retail vendor during reasonable hours, examine his books and documents, verify the quantities of tobacco sold or delivered, establish the correctness of the reports made, and, in the event of a report not being correct or not having been made, establish the quantity of tobacco sold or delivered.

[¶ 9871]

Sec. 15. Returns.—Every vendor must make such returns to the Department of Revenue, in such form, at such times and with such information as the Minister may prescribe.

[¶ 9873]

Sec. 16. Secrecy.—No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under the provisions of this act, or allow any such person to inspect or have access to any statement or return furnished under the provisions of this act.

DIVISION V

[¶ 9875]

OFFENCES AND PENALTIES

Sec. 17. Offences, Penalties.—Every person who

(a) sells or delivers tobacco in the Province without a license in force or otherwise contravenes the provisions of Division II of this act or of the regulations made in virtue of this act, or

(b) being an agent of the Minister, refuses or neglects to collect, account for or remit the amount of the tax in accordance with the provisions of this act or of the regulations made thereunder, or

(c) refuses or neglects to permit a revenue officer to make the examination and verification set forth in section 14 of this act,

commits an offence under this act, and shall be liable, upon summary proceeding, in addition to the payment of the costs and to the remittance of the tax, to a fine of not less than ten dollars and not more than one thousand dollars, in the cases provided for in the paragraph *b* of this section for each sale so made, and in the cases pro-

vided for in paragraphs *a* or *c* of this section, for each day of such offence, and, in all cases, in default of the payment of the fine and costs and of the remittance of the aforesaid tax, to imprisonment for three months.

[¶ 9877]

Sec. 18. Offence by consumer.—Every consumer who buys tobacco in the Province without paying the tax imposed under Division III of this act shall be guilty of an offence under this act and shall be liable, upon summary proceeding, in addition to the payment of the tax and costs, to a fine of not less than ten dollars and not more than two hundred dollars and, in default of payment of the fine, tax and costs, to imprisonment for a period not exceeding one month.

[¶ 9879]

Sec. 19. Not making return.—Any person contravening section 15 of this act or any of the regulations made in virtue of this act shall be liable, upon summary proceeding: for a first offence, to a fine of not less than ten dollars and not more than one thousand dollars, and costs, and, on failure to pay such fine and costs, to an imprisonment of not less than one month and not more than three months; and for each subsequent offence, in addition to the costs, to an imprisonment of three months.

[¶ 9881]

Sec. 20. Violating secrecy.—Any person violating any of the provisions of section 16 shall be liable, upon summary proceeding, to a fine of not less than twenty-five dollars and of not more than two hundred dollars, and costs, and, in default of payment of the fine and costs, to an imprisonment not exceeding three months.

DIVISION VI

[¶ 9883]

PROSECUTIONS

Sec. 21. Suits.—(1) Suits brought under this act shall be taken in the name of the Deputy Minister of Revenue before a justice of the peace, a judge of the sessions or a district judge, and shall be governed by Part I of the Summary Convictions Act (Chap. 35) save that, whenever the payment only of the tax is claimed, such suit shall be brought before the Superior Court or any other court of competent jurisdiction in civil matters.

[¶ 9885]

(2) *Proof.*—It shall not be necessary to produce the original of a book, document, order or register in the possession of the Depart-

Sec. 21—continued

ment of Revenue, but a copy of extract certified by the Deputy Minister or by the Director of the Service shall be *prima facie* sufficient proof of the contents of the original.

[¶ 9887]

(3) *Deputy Minister represented.*—It shall not be necessary for the Deputy Minister to sign or swear to the complaint, to appear or to make proof of his appointment and of his exercising his office; for all purposes he shall be represented by the attorney appearing on behalf of the Attorney-General.

[¶ 9889]

Sec. 22. Injunction.—In addition to the recourses specially provided under this act for the violation of its provisions, Her Majesty in the rights of the Province may apply to a judge of the Superior Court for the granting of an injunction against any person who sells tobacco without having a license issued under the authority of this act, and still in force, ordering him to cease selling tobacco until a license be issued or reissued and all costs be paid.

[¶ 9891]

Security.—The Attorney-General representing Her Majesty in the rights of the Province shall be dispensed from the obligation of giving security.

[¶ 9893]

Procedure.—In all other respects, the provision of the Code of Civil Procedure respecting injunctions shall apply to the injunction proceedings mentioned in this section.

[¶ 9895]

Sec. 23. Partnership, etc.—Whenever a judgment has been rendered under this act against a partnership, corporation, club association or syndicate, such judgment may, in default of payment of the fine and costs, be executed:

- (a) in the case of a partnership, against each member of the partnership;
- (b) in the case of a corporation, club, association or syndicate, against its president, if the latter be in the Province, and, if not, against its manager or representative in the Province.

DIVISION VII

[¶ 9897]

GENERAL PROVISIONS

Sec. 24. Arrangements with vendors.—In order to facilitate the collection and remittance of the tax imposed by this act or to prevent the double payment of such taxes on the same tobacco, the Minister may effect such arrangements as he may deem expedient to make with a vendor and such arrangements shall be subject to this act.

[¶ 9899]

Sec. 25. Consolidated revenue fund.—The fees and taxes imposed by and collected under this act, and all fines recovered thereunder, shall form part of the consolidated revenue fund of the Province.

[¶ 9901]

Sec. 26. Interest.—Any tax due under this act shall bear interest at the rate of six per centum per annum, from the date such tax should have been remitted to the Department of Revenue.

[¶ 9903]

Sec. 27. Privilege.—Every sum due to the Crown under this act shall constitute a privileged debt ranking immediately after law costs.

[¶ 9905]

Sec. 28. Regulations.—(1) For the purpose of carrying into effect the provisions of this act according to their true intent or of supplying any deficiency therein, the Lieutenant-Governor in Council may make such regulations, not inconsistent with this act, as are considered necessary.

[¶ 9907]

(2) *Stamps.*—The Lieutenant-Governor in Council may also direct that the payment of the tax imposed by this act shall be evidenced by the affixing by the vendor of stamps upon the tobacco sold for consumption or upon the package. The stamps shall be issued according to the laws of the Province and particularly in accordance with the provisions of the Stamp Act (Chap. 80), and with any order-in-council respecting the same.

[¶ 9909]

(3) *Regulations.*—The Lieutenant-Governor in Council may also make regulations:

- (a) to authorize the Minister to make arrangements with any manufacturer or wholesale vendor of tobacco for the collection of the tax imposed by this act;

Sec. 28—continued

- (b) to order that the payment of the tax imposed by this act shall be ensured by means of marks other than the affixing of stamps upon the package or container of tobacco;
- (c) to order that any tobacco that is in the Province and is intended for sale for consumption therein shall bear a special identification mark in accordance with the requirements of the regulation;
- (d) to make provisions for the seizure and confiscation of any tobacco that is in the Province and is intended for sale or consumption therein, whenever it does not bear the mark prescribed by a regulation made under paragraph *b* of this subsection, and for the seizure and confiscation of any vehicle transporting in the Province any tobacco intended to be consumed therein, whenever it does not bear the identification mark prescribed by a regulation made under paragraph *c* of this subsection.

[¶ 9911]

Sec. 29. Coming into force of regulations.—The regulations made under section 28 and their amendments shall come into force from the time of their adoption, unless the Lieutenant-Governor in Council sets a subsequent date for that purpose; from the time of such coming into force, they shall have force of law as long as they are not repealed, as if they formed part of this act.

[¶ 9913]

Publication.—Such regulations, except those contemplated by paragraph *a* of subsection 3 of section 28, shall be published in the *Quebec Official Gazette*.

QUEBEC

TOBACCO TAX REGULATIONS

(O.C. No. 868)

[¶ 9951]

Regulations Concerning the Tobacco Tax Act

The Lieutenant-Governor in Council, acting under the authority of the *Tobacco Tax Act* (Quebec Revised Statutes 1941, chapter 87 and amendments), enacts the following, to wit:

[¶ 9953]

1. [Collection, Return, Etc].—The Minister of Finance may make arrangements with any manufacturer or wholesale vendor of tobacco for the collection and remittance of the Tobacco Tax, grant them the indemnity which he deems just, the whole on the terms and conditions which he believes reasonable.

The manufacturer and the wholesale vendor of tobacco, acting as agents for the Minister, shall remit the tax to the Revenue Branch with their report, within fifteen days immediately following the calendar month during which any sale has taken place. This return must be made in the same form as the document annexed to these presents and which is designated as "Form T-50". The Minister, however, may prescribe any other form.

When so requested by the Comptroller of Revenue, the manufacturer and the wholesale vendor of tobacco shall make a return to the Revenue Branch showing the total quantities of tobacco and the price thereof sold to all persons holding a licence issued under the *Tobacco Tax Act*, the quantity and the sale price of the tobacco bearing the identification mark prescribed by the present regulation and also the quantity and the price of the tobacco sold and which does not bear such mark. This return shall mention the name and address of each buyer and his registration number under the *Tobacco Tax Act*.

[¶ 9955]

2. [Special Obliteration of Excise Stamps].—Any tobacco which is intended for sale, consumption or use in the Province and which is found therein must bear the special identification mark hereafter mentioned:

The stamp which, under the *Federal Excise Tax Act*, must be affixed on tobacco, shall be obliterated in red ink only. Only those persons authorized by the Comptroller of Revenue shall have the right to thus obliterate in red ink the said excise stamp. However, this

Reg. 2—continued

officer is authorized to allow the obliteration in black ink of the said excise stamp when affixed on a package containing a brand of tobacco the sales whereof, in the Province, are limited. In such a case, he must require means of control which will insure the collection and remittance of the tax provided by the Act.

Regarding the tobacco manufactured outside the Province which is brought for use therein and the tobacco manufactured in the Province for use therein which does not bear the identification mark mentioned in the present regulation, the Minister may, if he deems it advisable to insure the collection of the tax prescribed by the Act, order that stamps be applied by the vendor on all such tobacco; the manner in which these stamps are to be obtained and all other pertinent matter will be governed by the *Stamp Act*, Quebec Revised Statutes 1941, chapter 75; any order issued by the Minister providing for the affixing of stamps in certain cases shall be published in the *Quebec Official Gazette*.

[¶ 9957]

3. [Searches].—The Comptroller of Revenue may, in writing, authorize any Police Officer or any Revenue Officer which he nominates to make searches and examinations in the places or establishments where he has reason to believe that tobacco is kept to be sold in the Province, in order to ascertain that such tobacco bears the identification mark prescribed by the present regulation; he may, in writing, authorize, any Revenue Officer or any Police Officer which he nominates to stop and search any vehicle which this officer believes to be transporting tobacco which does not bear the identification mark prescribed by the present regulation.

[¶ 9959]

4. [Seizures].—Any Revenue Officer specially entrusted with the carrying out of the *Tobacco Tax Act*, any Police Officer or any Bailiff of the Superior Court, duly authorized by the Comptroller of Revenue, shall have the right to seize any tobacco which is intended for retail sale, consumption or use in the Province, and which is found therein, when such tobacco does not bear the special identification mark prescribed by the present regulation. A warrant will not be required to effect such seizure.

Any Revenue Officer entrusted with the carrying out of the *Tobacco Tax Act*, any Police Officer or any Bailiff of the Superior Court of the Province, duly authorized by the Comptroller of Revenue, shall have the right to seize any vehicle transporting in the Province tobacco which is intended to be sold or used therein when such tobacco does not bear the special identification mark prescribed by the present regulation. A warrant will not be required to effect such seizure.

The burden of proving that the tobacco seized was not intended to be used in the Province will be upon the owner of such tobacco.

[¶ 9961]

5. [Records to be Kept].—Manufacturers and wholesale vendors of tobacco are obliged to keep, at their principal place of business, an accounting system and records necessary to enable the Revenue Officers to ascertain that the provisions of the law and the regulations made thereunder have been complied with and that the collection and remittance of the tax has been made, in all cases where such manufacturers and such vendors were under the obligation to collect the tax. These persons must also have books and records establishing the purchases made by them for resale and also for their own use. They must have books showing all their tobacco sales, the names and addresses of the buyers, the amount and dates of their sales, and the mention whether or not the tobacco sold bears the identification mark prescribed by the present regulation. The registration number of the licensed buyer must be found in such books and records. When such tobacco, properly identified according to the present regulation, has been shipped outside the Province, the vendor has the obligation to keep the necessary evidence of such sale and shipment, and to also have the quantities sold, the sale price, the name, registration number and address of the buyer as well as the place of delivery.

Manufacturers and wholesale vendors of tobacco have the obligation to keep in their possession all their purchases and sales invoices, bills of lading, delivery receipts, statements of accounts and all other documents necessary to allow the auditors of the Revenue Branch to verify the amount of taxes collected or which should have been collected and to ascertain the exactness of the returns made by them to the Minister. None of these books and records are to be destroyed without a written authorization from the Comptroller of Revenue.

[¶ 9963]

6. [Invoices to be Kept].—Every vendor, including the retail vendor, must have and keep all invoices showing his purchases. These invoices must indicate the name of his vendor and also the license number which the latter has obtained under the *Tobacco Tax Act*.

[¶ 9965]

7. [Complaints].—When any tobacco not bearing the identification mark mentioned in the present regulation has been seized, or when any vehicle has been seized, according to the present regulation, the confiscation must be declared following a complaint filed in the name of the Comptroller of Provincial Revenue; such complaint and all other proceedings shall be governed by the provisions of the *Quebec Summary Convictions Act*.

[¶ 9967]

8. [Cancellation of License].—Any judgment maintaining a seizure of tobacco made under the *Tobacco Tax Act* or the present regulation automatically entails the cancellation of the license which the owner or possessor found in default by the court held under the *Tobacco Tax Act*.

[¶ 9969]

9. [Penalty].—Every person who contravened the provisions of the present regulation commits an offence and shall be liable, on summary conviction, in addition to the costs, to the payment of the tax exigible, to the confiscation of the tobacco and of the vehicle seized, as the case may be, to a fine of not less than \$10.00 and not more than \$1,000.00 and, in all cases, in default of the payment of the fine, costs and tax, to imprisonment for three months. In the case of a second offence, the fine shall not be less than \$500.00.

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